

FREEDOM COURT REPORTING

Page 201	Page 203
<p>1 MS. NELSON: That's totally not the</p> <p>2 testimony and hypothetical.</p> <p>3 A. If Nancy's version were correct, but it's not</p> <p>4 correct.</p> <p>5 Q. Now, do you remember what Nancy stated that</p> <p>6 you told her about Lavera?</p> <p>7 A. No, I don't.</p> <p>8 Q. She said that you highly praised Lavera, that</p> <p>9 she was a good magistrate.</p> <p>10 A. I thought Valarie is the best magistrate we've</p> <p>11 ever had, and she didn't say I said that.</p> <p>12 Q. That she previously worked at the jail, very</p> <p>13 well liked, knowledgeable.</p> <p>14 Did you tell Nancy that about Lavera?</p> <p>15 A. I don't -- I don't remember what I would have</p> <p>16 said.</p> <p>17 Q. Is that something that you thought about</p> <p>18 Lavera at the time Nancy was employed?</p> <p>19 A. I wouldn't have said that she was most</p> <p>20 knowledgeable because I think she was very new</p> <p>21 then.</p> <p>22 Q. Well, I didn't say "most knowledgeable" but</p> <p>23 very knowledgeable?</p>	<p>1 A. That she worked in the jail. Parts of it,</p> <p>2 yes. I think that --</p> <p>3 Q. So you may have told Nancy that?</p> <p>4 A. That she worked in the jail or --</p> <p>5 Q. Nancy couldn't think of anything negative you</p> <p>6 said about Lavera.</p> <p>7 A. Nancy is trying to sue me for racial</p> <p>8 discrimination. She wouldn't tell you</p> <p>9 anything negative I said about Lavera.</p> <p>10 Q. Well, then, you're trying to defend a race</p> <p>11 case, so you may be prone to say anything that</p> <p>12 would benefit your defense; isn't that</p> <p>13 correct?</p> <p>14 A. You're trying to defend a liar. I mean,</p> <p>15 that's the reality of what we're dealing with,</p> <p>16 Mr. Jaffree.</p> <p>17 Q. Yeah. I mean, I wasn't present so I -- I</p> <p>18 don't have a dog in this fight in terms of who</p> <p>19 is telling the truth or not because I wasn't</p> <p>20 there. I'm only saying that you both have an</p> <p>21 interest in trying to convey a certain point</p> <p>22 of view.</p> <p>23 You would agree with that, wouldn't you?</p>
Page 202	Page 204
<p>1 A. I don't think -- I wouldn't have said that. I</p> <p>2 mean, because she was new. She was -- she had</p> <p>3 just started.</p> <p>4 Q. How new is Lavera in January or February of</p> <p>5 2004?</p> <p>6 A. I don't remember. But --</p> <p>7 Q. She wasn't that new, was she?</p> <p>8 A. I don't -- she was one of the newer ones, one</p> <p>9 of the newer magistrates.</p> <p>10 Q. She wasn't that new in --</p> <p>11 MS. NELSON: She said, she didn't know.</p> <p>12 A. And when I say "new" --</p> <p>13 MR. JAFFREE: Well, if she didn't know,</p> <p>14 how can she say she was new?</p> <p>15 Q. What is the basis of that statement?</p> <p>16 A. She was one of the newer ones. In terms of</p> <p>17 all of the people you've named, she was one of</p> <p>18 the newer ones. Michelle Bryan was a newer</p> <p>19 one.</p> <p>20 Q. Well, do know whether or not that is something</p> <p>21 that you would have said about Lavera at the</p> <p>22 time?</p> <p>23 MS. NELSON: Asked and answered.</p>	<p>1 MS. NELSON: Object to the form.</p> <p>2 A. No.</p> <p>3 Q. No, you don't agree with that? Okay. Now,</p> <p>4 she testified that you said that Eunice Knight</p> <p>5 was very good, very quiet, an efficient and</p> <p>6 knowledgeable magistrate that wouldn't cause</p> <p>7 any problems.</p> <p>8 Did you feel that way about Eunice Knight</p> <p>9 at the time that Nancy was hired?</p> <p>10 A. I think possibly so.</p> <p>11 Q. She was quiet, good?</p> <p>12 A. Very quiet.</p> <p>13 Q. Very efficient and knowledgeable. So that's</p> <p>14 something that you could have told Nancy at</p> <p>15 the time?</p> <p>16 A. I could have said, quiet and -- yes.</p> <p>17 Q. What hue would you say Lavera and Eunice are?</p> <p>18 MS. NELSON: What "hue?" I mean, what do</p> <p>19 you mean by that?</p> <p>20 Q. Well, what race are they?</p> <p>21 A. African-American. Did I not say anything</p> <p>22 about Tonya?</p> <p>23 MS. NELSON: Let him ask the questions.</p>

51 (Pages 201 to 204)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 205	Page 207
<p>1 THE WITNESS: I'm sorry.</p> <p>2 Q. Well, I think if I understand the</p> <p>3 constellation of facts, Tonya wasn't employed</p> <p>4 yet at that time.</p> <p>5 Do you remember Nancy testifying that the</p> <p>6 white employees was upset and complaining</p> <p>7 about office assignments?</p> <p>8 A. Yes.</p> <p>9 Q. And they were upset and complaining about</p> <p>10 office assignments; isn't that correct?</p> <p>11 A. Not that I was aware.</p> <p>12 Q. Do you remember how the office assignments</p> <p>13 were configured?</p> <p>14 A. Yes.</p> <p>15 Q. Let me -- remember yesterday when Nancy</p> <p>16 testified that Fran gave her something?</p> <p>17 MS. NELSON: Again, you're producing a</p> <p>18 document that should have been</p> <p>19 produced yesterday when I deposed.</p> <p>20 MR. JAFFREE: Well, Nancy said she didn't</p> <p>21 have that document yesterday. She had</p> <p>22 it at home, but didn't have it with</p> <p>23 her.</p>	<p>1 A. I mean, no. You said -- I meant this. Can I</p> <p>2 identify these offices? Yes.</p> <p>3 Q. Well, before I get to the offices, have you</p> <p>4 ever seen that document before?</p> <p>5 A. Have I ever seen this document before? Not</p> <p>6 that -- I can't remember.</p> <p>7 Q. All right. Your counsel, I'm sure, will stop</p> <p>8 me if I'm incorrect. But did you hear Nancy</p> <p>9 testifying that that document was circulated</p> <p>10 around the office so the people would know</p> <p>11 where their offices were?</p> <p>12 A. No. I -- I did hear her testify to that.</p> <p>13 Q. Are you in a position to dispute that</p> <p>14 testimony that a document --</p> <p>15 A. No.</p> <p>16 Q. -- was circulated?</p> <p>17 A. No, I'm not.</p> <p>18 Q. So it could have been that document?</p> <p>19 A. It could have been, but I don't know.</p> <p>20 Q. Do you remember her testifying that Fran came</p> <p>21 by after she had resigned, sometime later</p> <p>22 perhaps even after Nancy had unceremoniously</p> <p>23 had been separated from --</p>
Page 206	Page 208
<p>1 MS. NELSON: Okay. Well, I again reserve</p> <p>2 the right to question her not only on</p> <p>3 some other things that have come up</p> <p>4 but also as to Plaintiffs' Exhibit</p> <p>5 Number 5.</p> <p>6 MR. JAFFREE: Talking about some other</p> <p>7 thing that came up. Because it's only</p> <p>8 one thing other than that document</p> <p>9 that came up.</p> <p>10 MS. NELSON: Well, the other documents you</p> <p>11 continue to produce that she didn't</p> <p>12 produce yesterday.</p> <p>13 MR. JAFFREE: Well, that's so funny. The</p> <p>14 second document.</p> <p>15 Q. But let me ask you to look at what is -- what</p> <p>16 did I say -- Plaintiffs' Exhibit 5 and ask you</p> <p>17 if you can identify that document.</p> <p>18 A. Yes.</p> <p>19 Q. You have seen that document before, haven't</p> <p>20 you?</p> <p>21 A. Yes -- no, no, I've not seen this document</p> <p>22 before.</p> <p>23 Q. Well, how can you identify it?</p>	<p>1 MS. NELSON: Object to the form.</p> <p>2 Q. -- her office and gave that to Nancy?</p> <p>3 A. Do I remember Nancy saying that?</p> <p>4 Q. Testifying. Yeah.</p> <p>5 A. Yes, I do.</p> <p>6 Q. And you see Fran's name on there, right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Well, does that diagram depict, based</p> <p>9 on information you have available to you, a</p> <p>10 rough sketch of what that office looked like?</p> <p>11 A. As much as I can --</p> <p>12 Q. Now, let me draw your attention --</p> <p>13 MS. NELSON: Well, I'm not sure she</p> <p>14 answered that.</p> <p>15 A. Yeah. As much as I can determine, it's a</p> <p>16 really rough draft.</p> <p>17 Q. I accept that as an answer. Let me move on to</p> <p>18 the next question.</p> <p>19 Let me draw your attention to that little</p> <p>20 cubicle that got at seven. Do you see that?</p> <p>21 A. Yeah.</p> <p>22 Q. Do you see the seven?</p> <p>23 A. Yes.</p>

52 (Pages 205 to 208)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 209</p> <p>1 Q. Wouldn't you agree that in relationship to</p> <p>2 some other offices, that's a little tiny, tiny</p> <p>3 cubicle?</p> <p>4 A. No.</p> <p>5 Q. Okay. What about number six; would you agree</p> <p>6 that number six in relationship to some other</p> <p>7 offices is a tiny, tiny cubicle?</p> <p>8 A. No. Their -- their offices -- I don't know</p> <p>9 why they have them drawn like this other</p> <p>10 than --</p> <p>11 Q. What about number five?</p> <p>12 A. No. Valarie's office is huge.</p> <p>13 MS. NELSON: That's number five?</p> <p>14 THE WITNESS: Yeah, it's huge.</p> <p>15 Q. So you think that office is huge?</p> <p>16 A. It is huge. You need to go over there.</p> <p>17 Number seven, everybody in the office wanted</p> <p>18 it because it's fully windowed --</p> <p>19 Q. Well, I appreciate --</p> <p>20 A. It's beautiful.</p> <p>21 Q. -- your gratuitous information, but I</p> <p>22 didn't -- I'm not asking what everybody</p> <p>23 wants.</p>	<p style="text-align: right;">Page 211</p> <p>1 Q. Well, can you give your opinion?</p> <p>2 A. I just don't know. I don't have any way of</p> <p>3 knowing. I didn't count them.</p> <p>4 Q. So do you think office number one and two to</p> <p>5 be the same size as office number six and</p> <p>6 five?</p> <p>7 A. I'm not sure. I'd have to go over there and</p> <p>8 see. Sarah is number three. It looks like</p> <p>9 it's the same size as one and two.</p> <p>10 Q. Well, I haven't got to number three yet.</p> <p>11 A. You don't want to.</p> <p>12 Q. No, it's not that. It's that -- you only had</p> <p>13 so many minorities when this office got</p> <p>14 selected. And, therefore, somebody had to get</p> <p>15 office number three or else I guess they</p> <p>16 remain empty, huh?</p> <p>17 Now, Nancy had testified that Lavera was</p> <p>18 responsible for office assignments. And I</p> <p>19 think you have proclaimed to the high heavens</p> <p>20 that that's simply not true.</p> <p>21 A. Right. Yes, I have denied that.</p> <p>22 Q. So who was responsible for office assignments?</p> <p>23 A. I was. Lavera was over the -- well, I was.</p>
<p style="text-align: right;">Page 210</p> <p>1 A. This isn't drawn to scale. It look -- just</p> <p>2 because it's drawn like that doesn't mean --</p> <p>3 Q. Let me ask you this: You see that North Oates</p> <p>4 name down at the bottom?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recognize that handwriting?</p> <p>7 A. No?</p> <p>8 Q. What about the E. Adams; do you recognize that</p> <p>9 handwriting?</p> <p>10 A. No.</p> <p>11 Q. So you don't recognize the handwriting?</p> <p>12 A. No, just not off the top of my head.</p> <p>13 Q. Okay. Let me ask you this: Which office is</p> <p>14 larger, office number one, that here seems to</p> <p>15 be very large or office number six?</p> <p>16 A. I don't know as far as measurements go. I've</p> <p>17 not measured them, so I don't know. Which</p> <p>18 appears on here, six appears, but I don't</p> <p>19 know. I've never measured them. I don't</p> <p>20 know.</p> <p>21 Q. Well, if you had to guess --</p> <p>22 MS. NELSON: I would ask her not to</p> <p>23 guess.</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. Did you send Lavera out as your emissary to</p> <p>2 tell other staff members that is the office</p> <p>3 assignment?</p> <p>4 MS. NELSON: Object to the form.</p> <p>5 Q. Do you understand the question?</p> <p>6 A. Yes, I do. But, no, I did not send her as my</p> <p>7 emissary. She was in charge of the physical</p> <p>8 move. Mary Beth, your client was in charge of</p> <p>9 moving the files.</p> <p>10 Q. So are you saying that because she was in</p> <p>11 charge of the --</p> <p>12 A. Mary Beth --</p> <p>13 Q. -- physical move, she had to tell people where</p> <p>14 their offices are going to be located?</p> <p>15 A. She had to tell them -- yes. So they would</p> <p>16 know where to -- to take -- to put their</p> <p>17 stuff.</p> <p>18 Q. So how did she know where --</p> <p>19 A. Because we walked around with the -- the guy</p> <p>20 that was doing the renovations. And I said,</p> <p>21 let's put -- Mary Beth is up here --</p> <p>22 Q. I need to stop you. When you say "we," who</p> <p>23 all are you referring to?</p>

53 (Pages 209 to 212)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 213	Page 215
<p>1 A. It would have been my friend Rhonda, Michelle, 2 Lavera, Johnny, the guy that was doing the 3 renovations. We were picking out paint 4 colors. We were doing everything. I mean, we 5 were renovating the office. 6 Q. So in terms of the magistrate office, it was 7 just simply Lavera that was with you? 8 A. Well, Michelle. I guess -- yes, in terms of 9 the magistrates' office. 10 Q. And do you consider Michelle part of the 11 magistrates' office? 12 A. Well, I consider myself a part of it, too. 13 So, yes. 14 Q. So you and Michelle and Lavera was the only 15 ones associated with the magistrates' office 16 that was going around picking offices? 17 A. Or -- yeah, I was showing them where stuff 18 needed to go. Lavera did not assign offices. 19 Q. Upon what did you base your decision to give 20 Eunice office number one? 21 A. It was not based on -- I didn't base it on 22 ethnicity or -- 23 Q. Well, upon what did you base it on?</p>	<p>1 Eunice's office was next to each other 2 randomly? 3 A. Yes. 4 Q. And upon what basis was office number three 5 selected? 6 A. I was just -- I was going around. I didn't 7 give it any thought as to -- 8 Q. No thought. 9 A. -- seniority or logistics or anything. 10 Q. Well, what about Mary Turner's lack of an 11 office; was that random? 12 A. Well, she did not have an office. She was 13 assigned to the front window, so that whole 14 area -- she had a rocking chair up there. She 15 had all kind of stuff but she didn't -- 16 Q. That was suitable -- 17 A. -- go into an office. 18 Q. Because she had a rocking chair, that would 19 make up for -- 20 A. No. I mean, she made that little area -- 21 Q. -- not having an office? I'm sorry. Because 22 she had a rocking chair, that would make up 23 for her not having an office?</p>
Page 214	Page 216
<p>1 A. -- acoustics. I mean, just -- 2 Q. I'm not asking you what didn't you base it on. 3 MS. NELSON: He's just saying how did you 4 determine. 5 A. I just -- I don't know. I just said, we need 6 -- this is -- 7 Q. Just arbitrary? 8 A. It was very just -- 9 Q. And the same thing -- 10 A. Not designed. 11 Q. -- for office number two? What about number 12 two; that was arbitrary, too? 13 MS. NELSON: Object to the form. She 14 never said it was arbitrary. That was 15 your word. 16 MR. JAFFREE: Well, she said number one 17 was arbitrary. 18 A. Random. Random is a better word than 19 arbitrary. 20 Q. Office number one was random. Was office 21 number two random? 22 A. Yes. 23 Q. And it just so happens that Lavera and</p>	<p>1 A. No. No. 2 Q. Was there a reason you mentioned a rocking 3 chair? 4 A. No. She -- she made her -- put all her stuff 5 up there. She was assigned to the front 6 window. That was her eight to five 7 assignment. So I mean, where would she have 8 gone to her office? She had every -- a desk 9 there. 10 Q. She didn't need an office; your statement was 11 that Mary Turner didn't need an office? 12 A. My statement was that she had an office, but 13 she had space. 14 Q. Do you remember Nancy's testimony that you was 15 punishing Mary Turner for some altercation she 16 had had with Kai Davis at some meeting? Do 17 you remember Nancy's testimony to that? 18 A. Yes. 19 Q. She testified that you told her that? 20 A. Yes. 21 Q. Did you tell Nancy that you was punishing Mary 22 Turner by not giving her an office in 23 retaliation for what she may have done or not</p>

54 (Pages 213 to 216)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 217	Page 219
<p>1 done with respect to Kai Davis?</p> <p>2 A. No.</p> <p>3 Q. Didn't tell Nancy that?</p> <p>4 A. No.</p> <p>5 Q. She made that up out of thin air?</p> <p>6 A. I don't know where she got it from,</p> <p>7 Mr. Jaffree.</p> <p>8 Q. Polluted air perhaps?</p> <p>9 MS. NELSON: Object to the form, comment.</p> <p>10 Q. Now, do you remember Nancy also testifying</p> <p>11 that you had it as one of your priorities to</p> <p>12 insure that the new person, Tonya Minifield --</p> <p>13 is that her last name -- get a nice office?</p> <p>14 Now you'd had an administrator on board</p> <p>15 that, according to you, have discretion and a</p> <p>16 whole host of things. Did you direct Nancy to</p> <p>17 give Tonya Minifield a nice office?</p> <p>18 MS. NELSON: Object. Not so much to that</p> <p>19 question but to all the prior</p> <p>20 commentary before.</p> <p>21 A. I guess my point is, we gave Valarie a bigger</p> <p>22 office.</p> <p>23 Q. Do you understand the question?</p>	<p>1 Q. Did you recommend an office --</p> <p>2 A. No.</p> <p>3 Q. -- for Tonya?</p> <p>4 Did you suggest that you wanted her to</p> <p>5 have an office to which she would be pleased?</p> <p>6 A. No.</p> <p>7 Q. Well, what exactly did you tell Nancy with</p> <p>8 respect to Tonya's office, to the best of your</p> <p>9 recollection?</p> <p>10 A. I don't remember anything specific about</p> <p>11 Tonya's -- giving Tonya a special office or an</p> <p>12 office. There were office -- there was office</p> <p>13 space back by the kitchen that was not being</p> <p>14 used. It's a huge office. I think</p> <p>15 Valarie has -- so I said, you know, you</p> <p>16 wouldn't have put -- if I had brought Tonya in</p> <p>17 and put her in that huge office, then they</p> <p>18 would have really complained. So we put</p> <p>19 Valarie in the huge office in the back and</p> <p>20 gave her Valarie's other office.</p> <p>21 Q. Why did you busy yourself with what kind of</p> <p>22 office Tonya got?</p> <p>23 A. Because we were renovating -- the offices</p>
Page 218	Page 220
<p>1 MS. NELSON: He asked about Tonya. Ask</p> <p>2 the direct question about Tonya. Did</p> <p>3 you direct Tonya -- what was the</p> <p>4 question?</p> <p>5 A. No, I did not direct Nancy to give --</p> <p>6 MR. JAFFREE: Do you want to take over my</p> <p>7 chair now and ask her?</p> <p>8 MS. NELSON: No. But you just go into</p> <p>9 this long commentary, which I don't</p> <p>10 agree with and that is not a</p> <p>11 question. But it finally led to a</p> <p>12 question which was, did she direct</p> <p>13 Tonya and something.</p> <p>14 Q. Did you recommend Tonya for any particular</p> <p>15 office?</p> <p>16 A. No.</p> <p>17 Q. Did you tell Nancy that you wanted Tonya to</p> <p>18 have an office?</p> <p>19 A. An office?</p> <p>20 Q. Yeah, any office?</p> <p>21 A. Any office?</p> <p>22 Q. Any office.</p> <p>23 A. Yes, I'm sure did. I don't know.</p>	<p>1 weren't complete. The building was in the</p> <p>2 process of being renovated. We had to go back</p> <p>3 to the commission and ask them to let us</p> <p>4 continue on with the building. You see, we</p> <p>5 had run out of space. We had to go back to</p> <p>6 them and ask them to let us continue on</p> <p>7 renovating.</p> <p>8 Q. Well, didn't you have an office that was sort</p> <p>9 of unoccupied at the time?</p> <p>10 A. Where?</p> <p>11 Q. Well, I don't know. Nancy testified</p> <p>12 about -- let's see. Oh, what about this area</p> <p>13 designated as ten; could that be an office?</p> <p>14 (Brief pause)</p> <p>15 Q. Well, just so I'm clear, you did not dispute</p> <p>16 that you had a discussion with Nancy about</p> <p>17 where Tonya should be placed.</p> <p>18 A. I dispute specifically about Tonya. The big</p> <p>19 thing was getting additional renovations done</p> <p>20 to the office. I don't see that I would have</p> <p>21 taken time to go up there and say, give Tonya</p> <p>22 a special office.</p> <p>23 Q. Now, was --</p>

55 (Pages 217 to 220)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 221

1 A. No, I -- yes, I dispute that. I'm sorry.
 2 **Q. Well, was Tonya white or black?**
 3 A. Black.
 4 **Q. And she was new; is that correct?**
 5 A. New in terms of -- I don't understand the
 6 question.
 7 MS. NELSON: Clarify your question. New
 8 in terms of what?
 9 **Q. In terms of her seniority with respect to**
 10 **other magistrates?**
 11 A. She was a newer employee, yes.
 12 **Q. Was it your policy that if any staff member**
 13 **have a complaint against Nancy, they could**
 14 **come directly to you?**
 15 A. No.
 16 **Q. What was the proper protocol?**
 17 A. I don't know that there was one. They try to
 18 work it out with -- with their supervisor, I
 19 would hope, before they would come to me.
 20 **Q. But you didn't have a protocol?**
 21 A. I asked that complaints be put in writing to
 22 cut down on the ying-yang.
 23 **Q. You do acknowledge that you asked that**

Page 222

1 **complaints be put in writing?**
 2 A. I told -- yes, I said that they need to be in
 3 writing.
 4 **Q. Do you also acknowledge that you said**
 5 **complaints that's not in writing wouldn't be**
 6 **given any serious consideration?**
 7 A. I don't remember saying that.
 8 **Q. Could you have said that?**
 9 A. To whom?
 10 **Q. To Nancy.**
 11 A. I don't remember specifically saying that, but
 12 I would have preferred that they be in
 13 writing.
 14 **Q. You'd have preferred that they be in writing?**
 15 A. Yeah. If they gave me a serious complaint, of
 16 course. But, yeah, needed to be -- I would
 17 prefer in writing.
 18 **Q. But the protocol is that they should go to**
 19 **Nancy first?**
 20 A. Or whomever their supervisor was unless she
 21 was in court.
 22 **Q. Now, Nancy had been hired but didn't start at**
 23 **the time that you was interviewing Tonya,**

Page 223

1 **right?**
 2 A. No.
 3 **Q. No what?**
 4 A. Tonya had been interviewed before we ever
 5 hired Nancy.
 6 **Q. So you dispute Nancy's contention that she**
 7 **wanted to sit in on the interview with Tonya?**
 8 A. I dispute that Nancy ever asked me could she
 9 sit in on an interview with Tonya, and I said,
 10 no, you can't.
 11 **Q. Well, I guess if Tonya was already hired**
 12 **before you interviewed Nancy --**
 13 A. She was already interviewed.
 14 **Q. Interviewed. Did you have any subsequent**
 15 **interviews with Tonya?**
 16 A. I don't -- I don't think so. We had
 17 interviewed her, and she was on the list.
 18 She -- we interviewed more than one person
 19 from that list.
 20 **Q. So Nancy is making up this business about**
 21 **wanting to be in on the interview with Tonya?**
 22 A. Nancy is lying if she said that I told her,
 23 no, you cannot sit in on this interview. I

Page 224

1 never said that.
 2 **Q. Do you recall responding to anything saying**
 3 **that Nancy had not just started and that's why**
 4 **she was not in on an interview; do you recall**
 5 **whether you responded --**
 6 A. No, I think --
 7 **Q. -- anywhere saying that?**
 8 A. No. What I think I -- my testimony was --
 9 what I remember thinking was that Tonya had
 10 been interviewed before Nancy was hired or
 11 before she was -- she might have been hired to
 12 do the weekend stuff when she would come in
 13 on -- she was still full-time with Legal
 14 Services Monday through Friday.
 15 So she was working on the weekends with
 16 HTE, who was coming down from Kentucky to meet
 17 with her. And we had -- we had already
 18 interviewed the candidates for magistrate
 19 before she came on board full time is my
 20 under -- is my recall.
 21 **Q. Well, could you be mistaken when you say that**
 22 **there was no interviews of Tonya subsequent to**
 23 **Nancy's interview?**

56 (Pages 221 to 224)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 225	Page 227
<p>1 A. That I did not interview Tonya after Nancy was 2 hired?</p> <p>3 Q. After Nancy was interviewed.</p> <p>4 A. I don't recall that.</p> <p>5 MS. NELSON: After she was interviewed?</p> <p>6 Q. I think your testimony was after Nancy was 7 interviewed.</p> <p>8 A. Maybe after Nancy was interviewed but not 9 hired?</p> <p>10 Q. Well, I'm trying to see what your testimony 11 is.</p> <p>12 A. I'm confused about your question.</p> <p>13 Q. I don't want you to be confused.</p> <p>14 A. I am.</p> <p>15 Q. I'm not trying to lead you down a primrose 16 path. I just want to see what your testimony 17 is.</p> <p>18 A. My testimony is that we'd already interviewed 19 Tonya before Nancy was hired or came on board 20 full-time.</p> <p>21 Q. But not necessarily before Nancy got 22 interviewed?</p> <p>23 MS. NELSON: Do we know when Nancy got</p>	<p>1 background or experience or something. What 2 was Nancy not honest about during the 3 interview process?</p> <p>4 A. Not the interview process. I just understood 5 Nancy that she -- her supervisory experience 6 at Legal Services --</p> <p>7 Q. What supervisory experience did Nancy indicate 8 that she had?</p> <p>9 A. She told me that she did everything, that you 10 didn't do anything, that you wouldn't fire 11 anybody, that she had to do everything in that 12 office.</p> <p>13 Q. She fired people as well?</p> <p>14 A. And that's why she left because she was tired 15 of doing everything.</p> <p>16 Q. Okay. So you're saying that maybe she 17 embellished --</p> <p>18 A. Yes.</p> <p>19 Q. -- her role, or maybe she's telling the truth?</p> <p>20 A. Maybe she is. That she had to do --</p> <p>21 Q. So upon what do you base your --</p> <p>22 A. Well, then we found out there was one 23 receptionist in the office, and I don't -- I</p>
Page 226	Page 228
<p>1 interviewed?</p> <p>2 Q. Well, let's just assume that Nancy got 3 interviewed in December.</p> <p>4 MS. NELSON: Well, I don't want to assume 5 anything.</p> <p>6 Q. Well, do you know whether or not she was 7 interviewed before Nancy was interviewed?</p> <p>8 A. I don't know.</p> <p>9 Q. Now, you don't know.</p> <p>10 A. Before she was interviewed or hired?</p> <p>11 Q. Before Nancy was interviewed.</p> <p>12 A. I -- no.</p> <p>13 Q. So Nancy submitted to these two interviews 14 before groups of people before she was hired? 15 I think Nancy said she rejected the job when 16 it was first offered. Do you dispute that?</p> <p>17 A. I don't dispute that. I remember there was 18 something about she wanted more money.</p> <p>19 Q. Now, you mentioned something that sort of went 20 past me at the time you mentioned it, but 21 suddenly is waving a red flag.</p> <p>22 MR. JAFFREE: Sorry for the commentary.</p> <p>23 Q. But you said Nancy was not honest about her</p>	<p>1 think she embellished the extent of her 2 management experience because she was not 3 office manager. She was executive secretary 4 by her own testimony --</p> <p>5 Q. Well, did she tell you --</p> <p>6 A. -- yesterday.</p> <p>7 Q. -- that she was executive secretary; do you 8 have her resume?</p> <p>9 A. No. She said she was the office manager, is 10 what she told me.</p> <p>11 Q. Okay. But did you get her resume and it say 12 office manager or executive secretary?</p> <p>13 A. I have not looked.</p> <p>14 Q. But if she said executive secretary, then --</p> <p>15 A. It would have led me to believe that she was 16 not the office manager. There's a 17 distinction.</p> <p>18 Q. Did you -- you know that she was a secretary 19 of sorts and --</p> <p>20 A. She told me she was an office manager.</p> <p>21 Q. -- not an attorney, correct?</p> <p>22 A. She told me she was over the attorneys, that 23 she managed them.</p>

57 (Pages 225 to 228)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 229</p> <p>1 Q. You think a layperson can be over an office of 2 attorneys? 3 A. She said she was the office manager, that she 4 managed the office. 5 Q. Were you aware -- 6 A. That she assigned cases and that she fired 7 people. That's what -- 8 Q. She told you that she assigned cases? 9 A. Yes. She said she fired people because you 10 wouldn't do it. She had to go in there and do 11 it for you and that she had to do everything. 12 Q. She told you that she fired people? 13 A. Nancy told me all that. She told me she 14 supervised the secretaries. She supervised 15 the -- 16 Q. Well, did you consider -- 17 A. -- intake coordinator. 18 Q. Did you consider contacting her current 19 employer and verifying what Nancy was saying? 20 A. No, I believed her. 21 Q. You believed that she was firing attorneys? 22 A. No. She had the hiring and firing of people. 23 Q. Hiring and firing attorneys?</p>	<p style="text-align: right;">Page 231</p> <p>1 Exhibit 6, and ask you, prior to today, have 2 you ever seen that document? 3 A. I don't remember specifically seeing this 4 document, no. 5 Q. But you could have seen it? 6 A. It says on here that Nancy called me to 7 discuss the complaint. And that might be 8 where my knowledge of it comes from. I don't 9 remember specifically seeing this. And it 10 looks like the original. So I don't remember 11 seeing it. No. Specifically, no. 12 Q. Well, if that was the original, who would it 13 come to first? I mean, the envelope would 14 have been sent to who? 15 A. I'm not sure. 16 MS. NELSON: You assume there is an 17 envelope. I object to the form. 18 A. Yeah. I really don't know. 19 Q. Okay. Well, did Nancy bring the facts of that 20 to your attention? 21 A. She said she did. I know that there was a 22 complaint by Advantage about bond -- about 23 bonding stuff. But also he complained about</p>
<p style="text-align: right;">Page 230</p> <p>1 A. That what she said. 2 Q. You believed that? 3 A. Yeah. Said she was an office manager. She 4 said that you told her to do it because you 5 didn't want to do it. She had to do 6 everything in that office. 7 Q. Well, anyway, can we now move -- by the way, 8 can we get an identification? Do we have one 9 on that A-Advantage Bonding Company Complaint? 10 (Brief pause) 11 Q. I noticed that Nancy wasn't asked all of that 12 yesterday. But I'm curious how she would 13 respond if she was asked. 14 A. I am, too. 15 MS. NELSON: What number are you marking 16 now? 17 MR. JAFFREE: Number 6. I'm sorry. 18 (Plaintiffs' Exhibit 6 was marked 19 for identification.) 20 THE WITNESS: Can we take one second? 21 MR. JAFFREE: Yeah. 22 (Brief recess) 23 Q. Let me show you what is marked as Plaintiffs'</p>	<p style="text-align: right;">Page 232</p> <p>1 the court docket, so it would have been 2 forwarded to her because all these were things 3 under her purview, the docket and -- you know, 4 she was their supervisor. And he said -- it 5 says here he gave her a copy. 6 Q. Do you remember Ms. Brackin's testimony that 7 she talked to you about that complaint as 8 well? 9 A. I don't remember her testimony saying that, 10 and I don't know when she would have had 11 occasion to talk to me about it. 12 Q. And because that somebody from A-1 had 13 contacted her since Lavera didn't have the 14 time to fool with it? 15 MS. NELSON: Object to the form. 16 A. Not specifically. 17 Q. Do you dispute Nancy's note that's on there? 18 A. That she called me? 19 Q. Well, you want to read the entirety of the 20 note? 21 MS. NELSON: Well, why don't you read the 22 note. 23 A. "Complaint filed by Rickey Stokes. Nancy</p>

58 (Pages 229 to 232)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 233

1 called judge to discuss complaint. What would
 2 happen now? Judge laughed and said nothing
 3 would be done because Rickey was always
 4 causing trouble. She said I should just not
 5 worry about the complaint."
 6 **Q. Is that something that you would have**
 7 **remembered had you said?**
 8 A. Yeah. I would have forwarded it to Nancy to
 9 handle. This was her department. She's the
 10 supervisor.
 11 **Q. Did you recommend that Nancy -- well, let's**
 12 **back up because maybe Nancy didn't have the**
 13 **authority to do this.**
 14 **Did you consider having the police**
 15 **department internal affairs do an**
 16 **investigation?**
 17 A. Of?
 18 **Q. Of Rickey's complaint.**
 19 A. No. I mean, I would have forwarded it to
 20 Nancy who was the supervisor at that time to
 21 handle.
 22 **Q. Would you have made a recommendation?**
 23 A. That what?

Page 234

1 **Q. That internal affairs do an investigation?**
 2 A. I don't see where -- would I have made a -- if
 3 I had gotten this letter -- if I had gotten
 4 this complaint, would I have asked internal
 5 affairs to investigate it?
 6 **Q. Well, what if you had got a complaint that**
 7 **says Lavera refused to act on it and didn't**
 8 **care whether or not somebody was being**
 9 **wrongfully arrested or not?**
 10 MS. NELSON: Object to the form.
 11 **Q. Would that have triggered --**
 12 A. It's just hypothetical.
 13 **Q. Would that have triggered an internal**
 14 **investigation? Well, it's not hypothetical**
 15 **when somebody testifies to that.**
 16 A. That somebody was wrongfully arrested and
 17 Lavera said she didn't care?
 18 **Q. Didn't have time to deal with it.**
 19 A. I don't think that was her testimony. She
 20 said he could have been. Somebody could have
 21 been wrongfully arrested.
 22 **Q. Okay. Somebody could have been, but she**
 23 **didn't -- she didn't want to intercede to**

Page 235

1 **prevent that from happening. Apparently, the**
 2 **only thing that prevented it from happening is**
 3 **Mary Brackin's intervention, correct?**
 4 MS. NELSON: Object to the form.
 5 A. Well, that's what Mary Brackin says.
 6 **Q. But do you dispute what Mary Brackin said?**
 7 A. That she's the only thing that prevented this
 8 person from -- I have no personal knowledge of
 9 this.
 10 **Q. Do you dispute that Mary Brackin said she**
 11 **talked to you about this and you said**
 12 **something to the effect that --**
 13 MS. NELSON: Talked to her about what,
 14 now? There are about five things on
 15 this exhibit.
 16 **Q. Talked to you about the fact that you came to**
 17 **Lavera and she didn't want to bother with it?**
 18 MS. NELSON: Wait. That who came to
 19 Lavera?
 20 MR. JAFFREE: Someone from A-1 came to
 21 Lavera complaining, maybe Rickey
 22 Stokes came to her directly.
 23 MS. NELSON: And what's your question; did

Page 236

1 the judge know about this?
 2 **Q. Well, she testified that she talked to you**
 3 **about that. Do you dispute that?**
 4 A. I don't remember specifically.
 5 **Q. So she could have?**
 6 A. I mean, yeah, she could have but --
 7 **Q. And she's testified that you blew her off.**
 8 A. Who?
 9 **Q. Mary Brackin testified that you blew her off.**
 10 MS. NELSON: Object to the form. And the
 11 testimony was not stated that way.
 12 **Q. Could you have blown her off?**
 13 MS. NELSON: Object to the form.
 14 A. Not if somebody was about to get wrongly
 15 arrested. I mean, I would have told her to
 16 look into it, find out what's going on.
 17 **Q. But you wouldn't --**
 18 A. That's not something I would have encouraged.
 19 **Q. You wouldn't care that --**
 20 A. Yes, I would have cared.
 21 **Q. -- Lavera didn't care about it?**
 22 A. Yes, I would have cared. If there was a
 23 possibility that somebody could have got

59 (Pages 233 to 236)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 237

1 arrested, booked, charged, yes, I would have
 2 cared.
 3 **Q. Okay. Do you recall Nancy testifying that you**
 4 **told her you wasn't going to do anything about**
 5 **it because this bonding company was always**
 6 **causing problems?**
 7 A. I remember her testifying to that.
 8 **Q. Do you dispute you told her that?**
 9 A. I -- yes. Because I think I would have
 10 forwarded it to her to handle --
 11 **Q. And that --**
 12 A. -- if I'd gotten it.
 13 **Q. And that Lavera does a good job. I'm sorry.**
 14 **I'm talking over you.**
 15 **Also, that Lavera does a good job handling**
 16 **alias warrants and that this company wasn't**
 17 **worth giving a second glance to?**
 18 A. No, I dispute saying this company is not worth
 19 giving a second glance to.
 20 **Q. Do you remember Nancy's testimony with respect**
 21 **to Don Thompson's complaint about Get Out**
 22 **Bonding?**
 23 A. I remember her testimony, yes.

Page 238

1 **Q. And her testimony was that you said that he**
 2 **was lying and that she shouldn't believe half**
 3 **of what he had to say?**
 4 MS. NELSON: Object to the form. I don't
 5 understand the question.
 6 A. And I don't remember that being her
 7 testimony. She said that I called him, and I
 8 said that's not what he -- he didn't tell me
 9 what she said, he said. But I don't remember,
 10 but that wasn't her testimony yesterday.
 11 **Q. So you don't dispute her testimony from**
 12 **yesterday?**
 13 A. You're mischaracterizing her testimony.
 14 That's not what she testified to yesterday. I
 15 remember what she said because I was kind of
 16 astonished at it.
 17 **Q. Do you remember her testifying that she said**
 18 **that Sarah complained that you would not**
 19 **permit her to do final forfeitures against Get**
 20 **Out Bonding?**
 21 A. I deny that. I don't -- I deny that.
 22 **Q. You dispute that.**
 23 A. I -- yes, I deny that. Dispute and deny that.

Page 239

1 **Q. Well, isn't it true that Get Out Bonding was**
 2 **allowed to ride on several possible bond**
 3 **forfeitures?**
 4 MS. NELSON: Object to the form.
 5 A. I deny -- ride on them?
 6 MS. NELSON: What do you mean by "ride."
 7 **Q. Well, I meant that steps were not taken to try**
 8 **to forfeit the bond from Get Out Bonding quite**
 9 **frequently?**
 10 A. The only time I -- no. I deny -- I mean, not
 11 for any -- I mean, if there was a reason, yes,
 12 like any other bonding company.
 13 **Q. Do you dispute that you treated Get Out**
 14 **Bonding like a sacred cow?**
 15 A. I do dispute that. Yes, I dispute that.
 16 **Q. But you didn't give them preferential**
 17 **treatment?**
 18 A. I deny giving Get Out Bonding preferential
 19 treatment or any other bonding company in the
 20 City of Dothan.
 21 **Q. Your attorney will stop me if I'm wrong, but I**
 22 **think she have stipulated that you agreed that**
 23 **staff had complained to you about Get Out**

Page 240

1 **Bonding?**
 2 A. That staff had complained to me?
 3 **Q. That Nancy --**
 4 MS. NELSON: I never stipulated to that.
 5 MR. JAFFREE: Well, I've got it in writing
 6 something. I'll show it to you.
 7 MS. NELSON: It's what Nancy --
 8 MR. JAFFREE: I sent you an e-mail, and
 9 you said something like we agree to
 10 stipulate that they made complaints
 11 about Get Out Bonding, something to
 12 that effect.
 13 MS. NELSON: I think I stipulated
 14 something to the fact that Nancy
 15 raised the question as to why so many
 16 people in the jail were using Get Out
 17 Bonding, something to that effect.
 18 But you can ask the judge. I
 19 didn't say -- I didn't stipulate to
 20 any characterization as you just put
 21 it.
 22 **Q. Was Get Out Bonding owned by a black person?**
 23 A. I think the owner was black, yes.

60 (Pages 237 to 240)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 241

- 1 **Q. What was the owner's name?**
 2 A. I don't remember the owner's name.
 3 **Q. Do you know the owner?**
 4 A. No, I never met the owner.
 5 **Q. Is that the only black bonding company in the**
 6 **City of Dothan as far as you know?**
 7 A. As far I know, yes -- no. No.
 8 **Q. It's not the only one?**
 9 A. No. Jan Bouier has been in business for 50
 10 years. B-O-U-I-E-R. And he has a -- he's
 11 black.
 12 **Q. Isn't it true that you have heard rumors that**
 13 **you and Get Out Bonding was in cahoots?**
 14 A. Only from Nancy.
 15 **Q. You've heard rumors from Nancy?**
 16 A. No. I heard her yesterday say we were in
 17 cahoots.
 18 **Q. Did you ever deny Sarah Fowler the right to do**
 19 **final forfeitures against Get Out Bonding?**
 20 A. I never denied Sarah the right to do -- I did
 21 final forfeitures if Sarah couldn't do them.
 22 **Q. And -- or whatever role she played in that.**
 23 **And if she testifies differently, you'd**

Page 242

- 1 **dispute that testimony?**
 2 A. I do dispute that.
 3 **Q. Do you remember Nancy's testimony with respect**
 4 **to Sergeant Woodruff?**
 5 A. Yes.
 6 **Q. What is your recollection of the testimony?**
 7 A. Something about problems with the warrants
 8 having to be -- no. I don't remember.
 9 Something about warrants taken to the jail,
 10 and then the jail couldn't find them or
 11 something.
 12 **Q. This problem concerning Lavera, do you**
 13 **remember that?**
 14 A. I thought she said Eunice took 30 warrants to
 15 the jail. But, no, I don't remember anything
 16 specific other than that.
 17 **Q. Well, if Nancy testified that Sergeant**
 18 **Woodruff complained about alias warrants for**
 19 **court referral defendants who were not**
 20 **compliant and that she had discussed this with**
 21 **Lavera who was responsible but the problems**
 22 **continued, would you dispute that Sergeant**
 23 **Woodruff ever complained about Lavera?**

Page 243

- 1 A. To me?
 2 **Q. To Nancy or you?**
 3 A. I -- I don't remember specifically, no. I
 4 would not know whether she complained to Nancy
 5 or not.
 6 **Q. Did Sergeant Woodruff ever complain to you?**
 7 A. I know there was a computer problem with the
 8 warrants. I don't remember specifically
 9 because she executes warrants. And that's her
 10 connection to them.
 11 **Q. Do you remember at my request -- but I could**
 12 **be wrong about how this came about -- Nancy**
 13 **talked yesterday about who would take over**
 14 **Lavera's job duties when she had be on leave**
 15 **for a hysterectomy?**
 16 A. Yes, I remember her testimony about that
 17 yesterday.
 18 **Q. And that she had selected Mary Turner, and**
 19 **Lavera was very upset over that. I'm sorry.**
 20 **Nancy selected Mary Turner, and Lavera wanted**
 21 **Eunice and Tonya to take over.**
 22 A. I remember her testimony about that.
 23 **Q. Now, Lavera came to you and complained about**

Page 244

- 1 **that, correct?**
 2 A. I don't remember that.
 3 **Q. Could that have happened?**
 4 A. I don't remember it if she did.
 5 **Q. Do you remember talking to Nancy about this?**
 6 A. Not specifically, no.
 7 **Q. You don't recall telling Nancy that she really**
 8 **should let Eunice and Tonya take over?**
 9 A. No. I remember it was Nancy's policy that
 10 each person had to get somebody to cover for
 11 them. If they did not, she -- they were to be
 12 disciplined.
 13 **Q. Yeah.**
 14 A. So if she had gotten somebody to cover for her
 15 in accordance with Nancy's policy, I might not
 16 have understood why Nancy would then want to
 17 say no, you can't do that because she wanted
 18 to discipline them if they were off and did
 19 not get somebody to cover for them.
 20 Did you remember her saying that
 21 yesterday?
 22 **Q. Well --**
 23 A. So it was kind of different treatment when it

61 (Pages 241 to 244)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 245

1 came to that.
2 **Q. Well, I don't recall any discipline. I recall**
3 **her testimony was that she had selected Mary**
4 **Turner to do it. And Lavera was --**
5 MS. NELSON: Well, Judge is right.
6 Nancy's testimony yesterday was that
7 if somebody was going to be out, she
8 expected that employee to arrange for
9 their own duties to be covered.
10 MR. JAFFREE: I remember her testimony.
11 **Q. But that's not my question. I remember your**
12 **counsel was just appalled that Nancy would do**
13 **that as opposed to make assignment herself.**
14 **But in this case, apparently, Nancy decided to**
15 **make the assignment herself.**
16 A. In this case, not in all the other ones, is
17 what you're saying.
18 **Q. Well, that's what I'm saying.**
19 A. So --
20 **Q. So Nancy shouldn't have done it in this case;**
21 **is that what you're saying?**
22 A. Did she do it in all other cases? In all
23 other cases, the person had to get somebody to

Page 246

1 cover for them.
2 **Q. Well, what is --**
3 A. That's your client's testimony.
4 **Q. And you're going to hear this again, but what**
5 **is the mischief in Nancy assigning someone to**
6 **take over Lavera's job while she was out with**
7 **her procedure as opposed to Lavera selecting**
8 **somebody? Well, what is the mischief in Nancy**
9 **doing that?**
10 MS. NELSON: I object to the form. I have
11 no idea what you mean by "what is the
12 mischief."
13 **Q. Well, do you understand what I mean?**
14 A. Not as far as mischief, no.
15 **Q. Well, what do you think I mean?**
16 A. I don't know what you -- I don't know.
17 Nancy had a policy that if you were to be
18 out, you had to get somebody to cover your job
19 or --
20 **Q. I understand that.**
21 A. -- you will be disciplined.
22 Let me finish now because you asked.
23 That was her policy. If you were out and

Page 247

1 you didn't get somebody to cover, you were
2 disciplined. That was her policy, and I tried
3 to support her in that. And Carol Sue asked
4 her about that yesterday.
5 Now, Lavera was going to be out. She got
6 somebody to cover, whoever it was. But Nancy
7 said, no, you -- I'm going to assign who
8 replaces you. And so that -- everybody else
9 she -- I mean, it was a contradiction in her
10 policy. But I don't remember the --
11 **Q. Well, could it be a modification in her**
12 **policy? I mean, what point are you making**
13 **because of this --**
14 A. I'm not making -- I'm going by your client's
15 testimony.
16 **Q. Well, my client's testimony --**
17 A. I don't have any direct knowledge.
18 **Q. My client's testimony that her policy was**
19 **absolute, unequivocal, and never change,**
20 **immutable? Was that her testimony?**
21 A. I don't remember.
22 **Q. I don't remember either.**
23 A. Me either.

Page 248

1 **Q. But, certainly, was it her prerogative to**
2 **alter her policy?**
3 A. Yes, it was I guess.
4 **Q. And was it your prerogative to alter your**
5 **policy as well?**
6 A. I didn't alter it.
7 **Q. But if you had a policy, can you alter it?**
8 A. If -- generally?
9 **Q. Do you have the power to alter your own**
10 **policy?**
11 A. Anybody does, Mr. Jaffree.
12 **Q. Not quite anybody, but maybe their own policy**
13 **they did.**
14 A. Right. That's what you asked me, did I
15 have --
16 **Q. So there was no mischief to be prevented in**
17 **having Nancy change her mind, was there?**
18 MS. NELSON: Object to the form. I still
19 have no idea what you mean.
20 MR. JAFFREE: You don't understand what
21 mischief mean?
22 MS. NELSON: I don't.
23 MR. JAFFREE: You don't have a clue? All

62 (Pages 245 to 248)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 249	Page 251
<p>1 right.</p> <p>2 MS. NELSON: Well, I know maybe like</p> <p>3 tomorrow night for trick-or-treat</p> <p>4 there may be some mischief. But --</p> <p>5 Q. But do you remember Nancy bringing to your</p> <p>6 attention a complaint by Valarie Savage</p> <p>7 against Lavera; this complaint took place on</p> <p>8 or about April the 15th?</p> <p>9 A. Not specifically.</p> <p>10 Q. And that you took Lavera's side in the</p> <p>11 complaint? It was dealing with some bonds --</p> <p>12 changing bonds while Lavera was on call?</p> <p>13 A. While she was on call? Is that a question?</p> <p>14 Q. Do you remember that's her testimony that she</p> <p>15 had complained? As a matter of fact, I think</p> <p>16 Lavera did a memo objecting to the complaint,</p> <p>17 but you subsequently took Lavera's side?</p> <p>18 A. I don't remember that specifically, no.</p> <p>19 Q. Would you dispute that that could have</p> <p>20 happened?</p> <p>21 A. I don't think I would have taken sides.</p> <p>22 MS. NELSON: Object to the form. I'm not</p> <p>23 clear about the question.</p>	<p>1 about a memo that she received from Eunice</p> <p>2 that she thought was insubordination because</p> <p>3 Eunice had told Nancy that she don't have the</p> <p>4 authority to do what Nancy was trying to do,</p> <p>5 and Nancy consulted with you about whether or</p> <p>6 not this memo was insubordinate. And you said</p> <p>7 no.</p> <p>8 Could that have happened?</p> <p>9 A. That's not what she testified to yesterday.</p> <p>10 She said I signed it.</p> <p>11 Q. Well, did that happen as a fact.</p> <p>12 A. I don't -- no. I don't remember that.</p> <p>13 Q. So it could have happened?</p> <p>14 MS. NELSON: I object to what could have</p> <p>15 happened. She said she didn't</p> <p>16 remember it happening.</p> <p>17 Q. Well, see, your attorney didn't ask her every</p> <p>18 question. Your attorney has left off some</p> <p>19 stuff. I deliberately because of the lateness</p> <p>20 of the day didn't cover a whole bunch of</p> <p>21 things I was going to cover.</p> <p>22 But I'm asking you, could that have</p> <p>23 happened?</p>
Page 250	Page 252
<p>1 A. I don't remember what happened.</p> <p>2 Q. Do you remember that sometime in July of 2004,</p> <p>3 Nancy sent a memo to Eunice regarding a bond</p> <p>4 changing procedure, that Eunice was very</p> <p>5 angry, and she went to you? Sorry. Back up.</p> <p>6 That she sent Nancy a memo saying that Nancy</p> <p>7 didn't have the authority to change bond</p> <p>8 procedure. Nancy thought this memo was</p> <p>9 insubordinate and discussed it with you, and</p> <p>10 you felt that it was not insubordinate because</p> <p>11 this was something new and Eunice was the</p> <p>12 first one that she had sent a memo to. So you</p> <p>13 put a stop to any insubordination.</p> <p>14 MS. NELSON: I'll object to the form and</p> <p>15 assumes facts not in evidence.</p> <p>16 Q. Well, do you remember that factual situation?</p> <p>17 A. No. No.</p> <p>18 Q. But did it happen?</p> <p>19 A. I don't remember. But she --</p> <p>20 Q. Could have happened?</p> <p>21 MS. NELSON: What happened? I'm not sure</p> <p>22 what you're asking.</p> <p>23 Q. Could it have happened that Nancy came to you</p>	<p>1 MS. NELSON: I want to object to a</p> <p>2 hypothetical question.</p> <p>3 Q. But do you recall that; do you recall the</p> <p>4 incident?</p> <p>5 A. No. I heard her testify about it yesterday.</p> <p>6 Q. All right. But do you recall Nancy ever</p> <p>7 complaining to you about a memo that she</p> <p>8 received from Eunice? Do you recall any</p> <p>9 complaint like that?</p> <p>10 A. Not specifically.</p> <p>11 Q. So she could have?</p> <p>12 A. Anything is possible. I don't remember her</p> <p>13 specifically discussing a memo with me about</p> <p>14 Eunice being insubordinate. But she said</p> <p>15 yesterday that she did, and she that I upheld</p> <p>16 her in it. She did not say that I put an end</p> <p>17 to it. You said yesterday that I signed it.</p> <p>18 I don't remember it, but that's what she said.</p> <p>19 Q. Well, okay. Fine.</p> <p>20 She also testified that she talked to you</p> <p>21 about the numerous mistakes that Eunice and</p> <p>22 Lavera makes, and I think she misspoke talking</p> <p>23 about a hundred times more than. But that was</p>

63 (Pages 249 to 252)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 253

1 sort of a term of emphasis as opposed to a
 2 term of fact. But numerous times about the
 3 errors that they made, and you indicated that
 4 everybody makes mistakes.
 5 MS. NELSON: Object to the form.
 6 Q. Did you ever have that conversation with her
 7 about not wanting to hear about mistakes that
 8 Eunice and Lavera makes because everybody
 9 makes mistakes?
 10 A. I don't remember specifically.
 11 Q. Do you remember the discussion that she had
 12 with you about she felt that Eunice and Lavera
 13 were being insubordinate because she did a
 14 memo telling them not to use a certain door
 15 for security reasons and they continued to do
 16 it; and she discussed this with you as
 17 insubordinate and you thought it was silly and
 18 not insubordinate.
 19 Did you have that discussion with her
 20 about the use of the wrong door? Did you have
 21 that discussion?
 22 A. I want to answer truthfully. Yes, I had a
 23 discussion with her about the door. And I

Page 254

1 told her to write them up if they continued to
 2 go out the door, but she also had to write all
 3 the other magistrates up that were going out
 4 the door.
 5 Q. You didn't tell her that you thought --
 6 A. No.
 7 Q. -- this was silly?
 8 A. I -- I thought it was silly, but I supported
 9 her in it. No, I did not tell her that.
 10 Q. Well, you didn't tell her it was silly but you
 11 thought it was silly?
 12 A. I supported her in her rule about not going
 13 out the back door.
 14 Q. Isn't it true that during this conversation it
 15 was just more than you and Ms. Martin present
 16 but also Kai Davis was present? And Kai Davis
 17 disagreed with you; she thought it was not
 18 silly but as a practical reason for having one
 19 door secured for security reasons, and that
 20 you shouldn't have a policy of people going in
 21 and out that door because there may be a
 22 safety factor with other staff. So Kai didn't
 23 agree with you at all that this was silly.

Page 255

1 Do you remember that discussion?
 2 MS. NELSON: Object to the form.
 3 A. I don't remember it.
 4 Q. Do you remember Kai being present during this
 5 discussion?
 6 A. No, I don't.
 7 Q. If Nancy stated that Kai was present, would
 8 you be in a position to dispute that?
 9 A. I don't remember.
 10 Q. So they didn't get written up for
 11 insubordination because of your intervention;
 12 is that correct?
 13 A. That's not correct. No.
 14 Q. Let's back up for a second. And I'm sure you
 15 remember this. Nancy was instructed to do an
 16 evaluation of Lavera, and you expressed
 17 displeasure with the markings and comments
 18 that Nancy had made on the evaluation,
 19 correct?
 20 A. Displeasure. I don't -- I don't know that it
 21 was displeasure. I was concerned.
 22 Q. You was happy?
 23 A. I was -- I was reticent. I was concerned.

Page 256

1 Q. Concerned. Is that the word you feel
 2 comfortable with, concerned?
 3 A. Yes.
 4 Q. And that before you would sign off on this,
 5 you went to two other people? Who did you go
 6 to?
 7 A. Three people.
 8 Q. Who did you go to?
 9 A. The personnel department.
 10 Q. Let me stop you. Who in the personnel
 11 department did you go to?
 12 A. We were all together.
 13 Q. Oh, all three of you together?
 14 A. I asked them to help me look over it.
 15 Q. You asked them as a committee to help you look
 16 over --
 17 A. No. We always go to Personnel about personnel
 18 issues. Any issue, we go to Personnel.
 19 Q. Who is "we" you're referring to?
 20 A. I say "we." I can't say for all department
 21 heads, but I do.
 22 Q. On this occasion, who did you go to first?
 23 A. Personnel.

64 (Pages 253 to 256)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 257

1 **Q. I don't know what that means.**
 2 A. The personnel department.
 3 **Q. I don't know what that means.**
 4 A. I can't be clearer.
 5 **Q. Yes, you can.**
 6 MS. NELSON: There's a personnel
 7 department for the City of Dothan.
 8 How much clearer --
 9 **Q. Who? The personnel department is a who?**
 10 MS. NELSON: Who in the personnel
 11 department?
 12 **Q. The personnel department is a who. Okay.**
 13 **What individual in the "who" personnel**
 14 **department did you go to?**
 15 A. If I remember correctly, it was Martha
 16 McClain.
 17 **Q. Who is she?**
 18 A. She is in the personnel department.
 19 **Q. In what capacity?**
 20 A. I'm not sure her title.
 21 **Q. Now, what day-to-day responsibility does**
 22 **Martha McCain have over -- what is Eunice's**
 23 **last name -- I mean, Lavera's last -- Lavera**

Page 258

1 **McCain? I'm suddenly drawing a blank. Well,**
 2 **what day-to-day responsibility does Ms. McCain**
 3 **have on Lavera's job?**
 4 A. None.
 5 **Q. What day-to-day observation does Ms. McCain**
 6 **have on Lavera's job performance?**
 7 A. None.
 8 **Q. Well, what was is the rationale of going to**
 9 **Ms. McCain --**
 10 MS. NELSON: It's McClain, isn't it?
 11 **Q. Ms. McClain. I'm sorry. Ms. McClain to get**
 12 **an assessment of an evaluation of something**
 13 **that she would have no role in evaluating and**
 14 **no ability to observe?**
 15 MS. NELSON: I object to the form. It
 16 assumes facts not in evidence. And
 17 she's never testified or you haven't
 18 let her testify as to why she went to
 19 Personnel.
 20 **Q. Well, you want to testify as to why you went**
 21 **to McCain?**
 22 MS. NELSON: McClain.
 23 **Q. Ms. McClain.**

Page 259

1 A. Are you asking me to?
 2 **Q. Well, yeah.**
 3 A. Because it was a personnel issue. And any
 4 time we have issues of personnel matters that
 5 we don't understand -- and I say "we" as a
 6 totality, as the department head. And anytime
 7 with personnel -- I have a personnel issue,
 8 then I go to Personnel to try to get an answer
 9 as to form, as to whether it's the correct way
 10 to do things, anything involving a personnel
 11 issue.
 12 **Q. What was the personnel issue at play here?**
 13 A. Well, there was several. It seemed that
 14 Nancy -- a lot of her comments were based on
 15 third-party stuff that happened before she
 16 came.
 17 **Q. Which comments?**
 18 A. Well, I asked her about the computer errors.
 19 And she said, well, I understand Lavera chose
 20 to take vacation instead of getting computer
 21 training.
 22 And I said, well, Nancy, how would you
 23 know that? You weren't here.

Page 260

1 That was before she was hired.
 2 **Q. Well, that's --**
 3 A. Hearsay.
 4 **Q. -- a process question.**
 5 MS. NELSON: You're asking her what she
 6 disputed, and she's trying to tell you
 7 from what she --
 8 MR. JAFFREE: Well, please let me finish.
 9 We're talking about apples and oranges
 10 here. One thing is that she commented
 11 about some errors, and then she
 12 commented that maybe the errors came
 13 about because of lack of computer
 14 training. But she don't need to know
 15 that Lavera didn't have computer
 16 training in order to observe computer
 17 errors.
 18 **Q. Is that correct?**
 19 A. I don't know.
 20 MS. NELSON: You asked her to explain why
 21 she took issue with some of the marks
 22 on the evaluation, and she's trying to
 23 tell you.

65 (Pages 257 to 260)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 261	Page 263
<p>1 MR. JAFFREE: No. She's telling me things 2 that -- 3 MS. NELSON: You don't like what she's 4 telling you, so you're trying to 5 change her testimony and put words in 6 her mouth. 7 MR. JAFFREE: I don't have anything 8 against what she is telling me except 9 that the question on the floor was, 10 what is it that she didn't know that 11 resulted in the markings. The 12 markings of errors is something that 13 she could have known without having 14 knowledge that Lavera went to computer 15 training. 16 A. Well, Nancy didn't -- she wasn't proficient. 17 She didn't know what they did. I didn't 18 understand how she could grade someone on 19 something she did not know how to do herself. 20 And I asked her about that. 21 And she said, well, Mary Beth said that 22 this is the way you're supposed to do it. 23 And I said, Nancy, you cannot base an</p>	<p>1 limitations that Nancy had? 2 A. I mean, she implied that she -- no. I 3 was -- I was not aware of all the limitations 4 that Nancy had when I hired her. 5 Q. Well, I mean, what prior magistrate experience 6 did Nancy have at the time you hired her? 7 A. I don't know. She implied that she'd been to 8 court, that she'd done all this stuff for 9 Legal Services and that she had all this 10 experience with court and -- and, you know -- 11 Q. Well, how -- 12 A. She implied that she -- 13 Q. What does Legal Services have to do with 14 municipal court? 15 A. I don't know. 16 Q. I mean, do you have any reason to think that 17 Legal Services get involved in municipal 18 court? 19 A. I had no reason to think she would lie. Not 20 specifically municipal court. She just said 21 court. 22 Q. Well, let's be practical here. By that time, 23 you had been the judge of municipal court for</p>
Page 262	Page 264
<p>1 evaluation on hearsay. 2 Q. Well -- 3 A. You cannot do that. And I told -- I asked 4 her, I said, have you looked at her other 5 evaluations? Have you -- you know, she graded 6 her so far down that she would not have gotten 7 a promotional raise. And I knew that it was 8 appealable. I knew that anything based on 9 hearsay would be appealed. And to me, that 10 was a personnel issue. I really was trying to 11 guide her, you know, just talk to her and say, 12 how do you do that. 13 Q. I'm a little confused on the hearsay part with 14 respect to -- 15 A. She kept saying what Mary Beth and -- 16 Q. Well, hold on. With respect to a -- for 17 instance, if something was supposed to be done 18 a certain way and Nancy feels that the way 19 that's been told to her makes sense but Lavera 20 was not doing it that way, I don't know how 21 that's a hearsay question. 22 But at the time you assigned Nancy to do 23 this task, you were aware, were you not, of</p>	<p>1 a few years; is that correct? 2 A. Yes. 3 Q. And for all practical purposes, you're the 4 only judge of municipal court; is that 5 correct? 6 A. No. 7 Q. For all practical purposes, you're the 8 principal judge? 9 A. There are others. 10 Q. Well, you're the only full-time judge -- 11 A. Yes. 12 Q. -- of municipal court? 13 A. Yes. 14 Q. You have an opportunity to observe what 15 attorneys come over to municipal court? 16 A. Yes. 17 Q. You have an opportunity to observe what 18 support staff come over to municipal court? 19 A. I don't know them all. No. 20 Q. Other than for their own personal complaint or 21 ticket or misdemeanor, have you observed any 22 attorneys associated with Legal Services 23 litigating in municipal court?</p>

66 (Pages 261 to 264)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 265</p> <p>1 A. I wouldn't know if they worked for --</p> <p>2 Q. You wouldn't know. You wouldn't know if they</p> <p>3 was with Legal Services or not?</p> <p>4 A. Right.</p> <p>5 Q. Did you have any reason to believe that Legal</p> <p>6 Services attorneys are over there litigating</p> <p>7 in municipal court?</p> <p>8 A. I didn't know one way or the other.</p> <p>9 Q. Had you observed Nancy coming over to</p> <p>10 municipal court doing anything?</p> <p>11 A. I don't remember.</p> <p>12 Q. Upon what would you base your belief on that</p> <p>13 Nancy had experience in municipal court?</p> <p>14 A. Nancy said that she had extensive court</p> <p>15 experience. She didn't necessarily say</p> <p>16 municipal court.</p> <p>17 Q. I see.</p> <p>18 A. She said she went to court routinely and did</p> <p>19 all this stuff for Legal Services.</p> <p>20 Q. Well, could that be true and yet she lacked</p> <p>21 the intimate knowledge of what goes on in a</p> <p>22 day-to-day world of municipal court?</p> <p>23 MS. NELSON: Object to the form.</p>	<p style="text-align: right;">Page 267</p> <p>1 MS. NELSON: She's trying to answer your</p> <p>2 question. She said she didn't know</p> <p>3 the approximate time.</p> <p>4 Q. I mean, was it within the first two months</p> <p>5 somehow you was able to tell?</p> <p>6 A. She never did grasp it.</p> <p>7 Q. Or the first three months?</p> <p>8 A. Never grasped it. But basically --</p> <p>9 Q. So you was able to tell the deficiencies</p> <p>10 immediately?</p> <p>11 A. No, not immediately.</p> <p>12 MS. NELSON: Object to the form.</p> <p>13 Q. Well, how long does it take you to grasp the</p> <p>14 deficiencies if you couldn't do it within the</p> <p>15 first three months?</p> <p>16 MS. NELSON: Object to the form.</p> <p>17 A. I don't remember how long it took to notice</p> <p>18 that she was not proficient.</p> <p>19 Q. Well, pretty much from day one she wasn't</p> <p>20 efficient.</p> <p>21 A. Is that your statement or --</p> <p>22 Q. Is that your statement?</p> <p>23 A. No, that's not my statement.</p>
<p style="text-align: right;">Page 266</p> <p>1 A. I guess the answer is yes.</p> <p>2 Q. Are you now, just so we're clear on the</p> <p>3 Record, trying to change issues and say Nancy</p> <p>4 was dishonest in her application and that can</p> <p>5 be a legitimate basis for the separation? Are</p> <p>6 you trying to advance that theory.</p> <p>7 A. No -- I'm -- I'm -- yeah. I am, yeah.</p> <p>8 Q. Oh, now you're trying --</p> <p>9 A. No. I'm saying she was misleading in her</p> <p>10 experience and that it showed after she'd been</p> <p>11 there for about a month, that she just wasn't</p> <p>12 proficient in what she was doing.</p> <p>13 Q. So after she'd been there a month, you're</p> <p>14 quite --</p> <p>15 A. Approximately.</p> <p>16 Q. Approximately a month. You're quite certain</p> <p>17 of this?</p> <p>18 A. Approximately. No, I'm not certain of the</p> <p>19 time.</p> <p>20 Q. But it was quite evident quite early?</p> <p>21 A. No, at first she --</p> <p>22 Q. So now it wasn't evident quite early, it just</p> <p>23 blossomed later?</p>	<p style="text-align: right;">Page 268</p> <p>1 Q. What's your statement?</p> <p>2 MS. NELSON: Y'all are just sort of</p> <p>3 talking among each other. Ask her</p> <p>4 questions. Ask her a question,</p> <p>5 please.</p> <p>6 MR. JAFFREE: I'm asking her a question.</p> <p>7 Q. Was she deficient from day one or not?</p> <p>8 A. No.</p> <p>9 Q. So she --</p> <p>10 A. She might have been. I just didn't notice it.</p> <p>11 Q. So she blossomed into a deficiency. Can you</p> <p>12 live with that statement?</p> <p>13 A. No.</p> <p>14 MS. NELSON: Object to form.</p> <p>15 A. Her deficiencies were revealed as time went</p> <p>16 on.</p> <p>17 Q. I see. It took you awhile to notice it. Is</p> <p>18 that your testimony?</p> <p>19 A. They were revealed over time.</p> <p>20 Q. It took you awhile to notice it?</p> <p>21 A. No, they were revealed over time.</p> <p>22 Q. But until they was revealed, they were</p> <p>23 concealed?</p>

67 (Pages 265 to 268)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 269

1 MS. NELSON: Object to the form.
 2 MR. JAFFREE: I'm trying to find out what
 3 this witness is saying.
 4 A. Yes. Or hidden.
 5 **Q. Hidden. Hidden deficiencies. Okay.**
 6 **So you went to personnel to ask them for**
 7 **input in the evaluation. And who else did you**
 8 **invite in for input?**
 9 MS. NELSON: Object to the form. Who
 10 else -- I object to -- you know, I
 11 don't know what you mean by "invite
 12 in." Who did she go to besides
 13 personnel?
 14 **Q. Would you like that question better; who did**
 15 **you go to besides personnel?**
 16 A. Well, it's kind of a mischaracterization.
 17 **Q. I can borrow that question.**
 18 A. We were in the city manager's conference room,
 19 and I asked for help, that I didn't know how
 20 to address this personnel issue. I had a
 21 supervisor that I thought was using hearsay
 22 evidence in an evaluation who had not had a
 23 long period of time to observe the person, who

Page 270

1 had no experience in what the person was
 2 doing.
 3 **Q. Did you realize this before you went to these**
 4 **people or after you met these people?**
 5 A. What?
 6 **Q. That you had a supervisor who was relying on**
 7 **hearsay and was not in a position to give --**
 8 A. She told me.
 9 **Q. -- an evaluation?**
 10 A. I knew that before I went. I asked her why
 11 did she grade them -- grade her like that.
 12 **Q. Well, if that's the case, help me here. Help**
 13 **me see clearly. Why didn't you just take the**
 14 **evaluation from her entirely and do it**
 15 **yourself?**
 16 A. Because she was her supervisor.
 17 **Q. Well, she was her supervisor when you went to**
 18 **these people seeking input.**
 19 A. On how to guide her into doing an evaluation
 20 that was not based on hearsay using
 21 her own -- using other tools.
 22 **Q. I'm a little bit confused because I know you**
 23 **keep using the term "hearsay," but if she**

Page 271

1 **grabbed some old evaluations and looked at**
 2 **them to somehow get some kind of direction,**
 3 **would these old evaluations, based on your**
 4 **experience as an attorney and a judge, be**
 5 **hearsay?**
 6 MS. NELSON: Object to the form. There's
 7 never been any testimony that --
 8 MR. JAFFREE: That she asked her to go
 9 look at old evaluations?
 10 **Q. You didn't testify to that?**
 11 MS. NELSON: Well, the judge never
 12 testified that that was the hearsay,
 13 that she went and looked at old
 14 evaluations.
 15 **Q. I'm asking you, is that hearsay?**
 16 A. No. Well --
 17 **Q. You encouraged her to go look at old --**
 18 A. I found the totality of the circumstances --
 19 **Q. You was complaining about hearsay that she**
 20 **relied on.**
 21 A. From people in the office.
 22 **Q. But you told her to go look at some hearsay.**
 23 A. From people in the office.

Page 272

1 **Q. I see. So the old evaluations would be old**
 2 **people that's not in the office anymore.**
 3 A. No. But they'll be written, documentary
 4 evidence of that employee. I mean, she's
 5 listening to what -- she said they told her
 6 that Lavera chose to take vacation instead of
 7 going to computer training. She had no
 8 first-hand knowledge of that. She wasn't
 9 employed there. She said that they told her
 10 that Lavera left the office and was on the
 11 phone all the time when she was gone. And I
 12 said, Nancy, you can't use that.
 13 **Q. Did those comments come out in the evaluation,**
 14 **that you're on the phone all the time? Was**
 15 **part of evaluation? I didn't get a copy of**
 16 **that evaluation.**
 17 A. I just remember her saying that they told her
 18 that when she was gone --
 19 MS. NELSON: Well, just a minute, now.
 20 For the Record, Mr. Jaffree, you do
 21 have that evaluation. And that
 22 evaluation, I questioned your client
 23 about yesterday.

68 (Pages 269 to 272)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 273

1 MR. JAFFREE: Well, let me look. It is
2 conceivable that I have -- I got so
3 much stuff.
4 MS. NELSON: Well, I just wanted to make
5 it very clear; you do have that
6 evaluation. Don't say that I didn't
7 provide it to you.
8 MR. JAFFREE: I will dig through this
9 stuff to see. I certainly didn't spot
10 that one because I was trying to look
11 for it.
12 **Q. But be that as it may, who else did you talk**
13 **to in addition to the person at personnel?**
14 MS. NELSON: Would you like to see the
15 evaluation? Would that help you? It
16 seems like you have memory enough to
17 tell.
18 A. Yeah. Yeah, I remember that it was -- we were
19 in -- it was after department -- it was a
20 department head meeting. I don't know why we
21 were all in there together. But the
22 acting -- it was the city manager at the time,
23 Jerry Corbin was there. Martha McClain from

Page 274

1 personnel and John White who was the chief of
2 police.
3 And I was asking, how do you handle this
4 evaluation where the employee -- what I told
5 you. I was really trying to give guidance
6 on -- you know, I really was looking at it
7 more like helping her because I knew it would
8 be appealed if it was all based on third-hand
9 knowledge.
10 **Q. And you knew this based on Lavera's prior**
11 **propensity for appealing?**
12 A. No. I just knew that that was --
13 **Q. You speculated or was it based on your**
14 **friendship with Lavera?**
15 A. No. I just knew that she couldn't base an
16 evaluation on -- on what somebody told her
17 happened before she got employed.
18 **Q. How would Lavera, independent of talking to**
19 **you, know that she had based that evaluation**
20 **on what other people have said?**
21 MS. NELSON: Object to the form.
22 A. Because Nancy was clear that that's what she
23 was basing it on. She was not in charge --

Page 275

1 when she left somebody in charge, they were
2 doing this. And, you know, she -- she was
3 clear about that.
4 **Q. But how would Lavera know that?**
5 A. She said it -- I think, in the evaluation, she
6 said that they told her. She would have had
7 to go over the evaluation with Lavera.
8 **Q. So that's what the said --**
9 A. Yeah. I think on there it says something
10 about she -- they told her that she was making
11 personal phone calls. I don't know how it
12 came up in conversation. But I said --
13 **Q. Well, I need --**
14 A. -- you cannot base --
15 **Q. I'd like to --**
16 A. -- you cannot base it on -- on that.
17 **Q. Well, okay. I'm going to try to get off of**
18 **this. But this committee that you went to,**
19 **did they --**
20 MS. NELSON: Object to the form.
21 A. It was not a committee.
22 **Q. Well, this group that you went to consisting**
23 **of the personnel director and who else?**

Page 276

1 A. Personnel director was not there. I don't --
2 I don't remember her being there.
3 **Q. Somebody in personnel. Who else?**
4 MS. NELSON: She's testified who it was.
5 MR. JAFFREE: Well, I don't remember her
6 testimony.
7 **Q. Can you tell me who else was there?**
8 MS. NELSON: The city manager and the
9 chief of police.
10 **Q. Okay. The chief of police was there? What**
11 **was the rationale for the chief of police**
12 **being --**
13 A. He was a department head and he evaluated
14 people.
15 **Q. I see. And he had a role in evaluating**
16 **Lavera?**
17 A. No. It was his -- I was asking him a
18 general -- I was asking them, how you handle
19 a -- the situation. I didn't want to change
20 her evaluation. That was her evaluation of
21 Lavera, but I wanted to give her guidance on
22 what she could and could not use. And I
23 didn't know how to do that.

69 (Pages 273 to 276)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 277	Page 279
<p>1 Q. You was determined that that evaluation not 2 stand; is that correct? 3 A. No. Because I could have just not signed it. 4 I could have not agreed with it. I had that 5 liberty to do that. 6 Q. Well, why didn't you just not sign it? 7 A. Well, because I wanted -- Nancy was her 8 supervisor. I didn't want to overrule her. I 9 just wanted to give her guidance on what she 10 could and could not use as an exact -- Nancy 11 was new to evaluating people. 12 Q. Okay. Now, were you satisfied with Nancy's 13 modification of the evaluation? 14 A. I -- I must have been. I don't remember. 15 Q. Now, which part of it -- the modified version 16 was not based on hearsay? 17 A. I don't remember. 18 Q. So even the modified version could have been 19 tainted with hearsay; is that your testimony? 20 A. I don't -- I don't remember. I don't know. 21 Q. You don't know. But you was satisfied with 22 the modified evaluation and you signed it 23 correctly; is that correct?</p>	<p>1 for surgery for eight weeks. Nancy had only 2 been employed a month before Lavera went out 3 or two months before. I mean, it just was a 4 lot of different things. 5 I wanted her to have a solid evaluation in 6 her hands to when she did it. And I would 7 have done that with any employee if I thought 8 that, you know, there was a problem with it. 9 It wasn't because it was Lavera or because of 10 her race. 11 Q. Didn't Nancy do other people's evaluation on 12 or about the same time? 13 A. I don't know. If she did, we went over those, 14 too. I had to sign those, too. 15 Q. Sign, but did you go to a group with those? 16 A. I don't know if she had -- if I had problems 17 with it. 18 Q. And let's talk about this hearsay again 19 because was Nancy present when Ms. Brackin was 20 investigated for an incident of telling a 21 consumer something? 22 MS. NELSON: Object to the form. 23 A. Which --</p>
Page 278	Page 280
<p>1 MS. NELSON: She's looking at it. And if 2 you'd give her a chance to read over 3 it. 4 She's looking at Defendants' 5 Exhibit 16 to Nancy Martin's 6 deposition. 7 (Brief pause) 8 A. Now, what was your question, Mr. Jaffree? 9 Q. That you apparently was satisfied with the 10 changes that she made and you signed off on 11 it? 12 A. Yes, I assume. 13 Q. You were satisfied with the revisions and you 14 signed off on it? 15 A. I -- I don't know with the revisions. I just 16 signed off on what she told me she had 17 reviewed and could come up with, you know, 18 points to give her so that she wouldn't lose 19 her -- 20 Q. You wanted some points, right? You wanted 21 Nancy to increase the points? 22 A. No. I wanted her to review the evaluation and 23 base it on her knowledge. Lavera had been out</p>	<p>1 Q. Pardon? 2 A. Which time? 3 Q. The Fountain -- Fondren -- Founder, whatever 4 the name is? 5 A. I don't know that she was present. She was a 6 supervisor when the investigation was done -- 7 was completed. She got the results of the 8 investigation as Nancy's supervisor -- I mean 9 as Mary Beth's supervisor. 10 Q. And so Nancy wasn't present when this incident 11 happened, so what Nancy put in was hearsay in 12 that evaluation; is that correct? 13 MS. NELSON: Object to the form. 14 Q. Ms. Brackin's evaluation. 15 MS. NELSON: She never -- we're not 16 talking about evaluation. We're 17 talking about a disciplinary action of 18 Mary Beth Brackin as opposed to an 19 evaluation for Lavera McClain over a 20 prior year's time period when she 21 hardly had the opportunity to evaluate 22 her. 23 MR. JAFFREE: We're also talking about she</p>

70 (Pages 277 to 280)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 281

1 did an evaluation of Ms. Brackin, and
 2 there was a entry put in about this
 3 incident that she was wasn't present
 4 for. Now, that incident was hearsay
 5 because she was wasn't there when it
 6 happened. And yet she put it in as if
 7 somehow she knew about it.
 8 A. She got the results of the investigation. I
 9 don't -- the incident might have happened.
 10 But she -- as her supervisor, the results of
 11 the investigation went to her.
 12 **Q. Well, but she didn't interview anyone?**
 13 MS. NELSON: The discipline had taken
 14 place. She was merely recording the
 15 discipline.
 16 MR. JAFFREE: Well, no, she was making a
 17 statement of policy in that
 18 evaluation. If you look at
 19 Ms. Brackin's evaluation, she makes a
 20 statement, positive statement. She
 21 don't say as a result of an
 22 investigation. She makes a positive
 23 statement of a wrong that allegedly

Page 282

1 was committed.
 2 MS. NELSON: I have no idea what you're
 3 talking about.
 4 MR. JAFFREE: I'm talking about
 5 Ms. Brackin's evaluation.
 6 Ms. Brackin's evaluation was done
 7 fairly similar to the time that the
 8 evaluation of -- matter of fact --
 9 MS. NELSON: I would ask that you show
 10 this witness the evaluation instead of
 11 you sitting here testifying as to what
 12 it purports to be.
 13 **Q. Well, do you remember that evaluation; do you**
 14 **remember a evaluation that she did --**
 15 A. Not specifically.
 16 **Q. -- of Ms. Brackin?**
 17 A. Not specifically. I remember you mentioning
 18 it.
 19 **Q. All right. Well --**
 20 A. Could you show it to me?
 21 **Q. Well, not at this moment. But is it not true**
 22 **that Ms. Martin did other people's**
 23 **evaluations while -- while she was employed as**

Page 283

1 **the administrator?**
 2 A. During her entire tenure or the first two
 3 months she was employed?
 4 **Q. Well, during her tenure?**
 5 A. I'm sure she did.
 6 **Q. But you did not intervene on any of these**
 7 **other evaluations?**
 8 A. I wouldn't say did I intervene. We -- we had
 9 to go over each evaluation before she -- I
 10 have to sign it as the reviewing authority.
 11 **Q. You did not criticize her markings on any**
 12 **other evaluation?**
 13 A. I can't say that I did not. Not criticize.
 14 But I might have asked her questions if she
 15 graded really low. They like for us to give
 16 specific examples of -- if you're going to
 17 give somebody a one. Then you need to justify
 18 why. So I might have asked her why did she
 19 get one, did she have specific examples. I
 20 was really trying to help Nancy be --
 21 **Q. If she testifies that you didn't get her to**
 22 **change any other evaluation from any other**
 23 **magistrate, would you be in a position to**

Page 284

1 **dispute that?**
 2 A. I don't think I got her to change this. I
 3 just asked her to review it and use her
 4 knowledge, not just what somebody -- not use
 5 what somebody told her.
 6 **Q. Do you remember her testimony that you said,**
 7 **this is not a threat, but you are still**
 8 **probationary?**
 9 A. I don't -- I heard her say that yesterday.
 10 **Q. Now, you see if you could go home, study this,**
 11 **and bring me back something different.**
 12 MS. NELSON: Is your question, does she
 13 remember Ms. Martin making that
 14 statement?
 15 **Q. Well, did you tell her that?**
 16 A. No.
 17 **Q. Did you tell anything closely approximated to**
 18 **that?**
 19 A. No. I -- I had a memo saying could you review
 20 this or -- could you review this --
 21 **Q. So her memory of that conversation and your**
 22 **memory of that conversations differs?**
 23 A. I never threatened her, if that's what she

71 (Pages 281 to 284)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 285	Page 287
<p>1 says, I threaten her with her job. That's</p> <p>2 what she said yesterday.</p> <p>3 Q. Well, you told her that this is not a threat</p> <p>4 but --</p> <p>5 A. That's what she says.</p> <p>6 Q. Do you dispute that?</p> <p>7 A. I do.</p> <p>8 Q. You didn't say that? Didn't say anything like</p> <p>9 that?</p> <p>10 A. I could -- yeah. I dispute threatening her</p> <p>11 with her job if she did not change Lavera</p> <p>12 McClain's evaluation.</p> <p>13 Q. And she changed that evaluation, didn't she?</p> <p>14 A. Yeah, she did.</p> <p>15 Q. And felt bad about it in the process, didn't</p> <p>16 she?</p> <p>17 A. I'm --</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 A. I'm not aware that she felt bad about it.</p> <p>20 Q. Well, according to you, did she not talk to</p> <p>21 Lavera about it afterwards?</p> <p>22 A. No. She told Lavera that she was threatened</p> <p>23 if she didn't change it.</p>	<p>1 A. I don't think that's insubordination.</p> <p>2 Q. Well, what do you call it?</p> <p>3 A. Lying. She lied. I never threatened her with</p> <p>4 her job if she didn't change the evaluation.</p> <p>5 As the reviewing authority, if I had not</p> <p>6 signed the evaluation, she would have had</p> <p>7 to -- it wouldn't have gone through anyway.</p> <p>8 So I wouldn't have to threatened her with her</p> <p>9 job.</p> <p>10 Q. Let me try to move away from that evaluation.</p> <p>11 THE WITNESS: Can we take a break?</p> <p>12 (Brief recess)</p> <p>13 MS. NELSON: If I could say one thing.</p> <p>14 Please let my client answer the</p> <p>15 question that's on the table before</p> <p>16 her before you jump into another</p> <p>17 question. I feel that the court</p> <p>18 reporter is not being able to get down</p> <p>19 her testimony accurately and</p> <p>20 completely.</p> <p>21 MR. JAFFREE: I'll try to be more careful</p> <p>22 on that score.</p> <p>23 All right. If we could resume.</p>
Page 286	Page 288
<p>1 Q. She told Lavera that?</p> <p>2 A. And I objected to her telling another</p> <p>3 employee --</p> <p>4 Q. That she'd been threatened?</p> <p>5 A. Yes.</p> <p>6 Q. I see.</p> <p>7 A. I thought it was unprofessional.</p> <p>8 Q. Even if true?</p> <p>9 A. Unprofessional. It wasn't true. I never</p> <p>10 threatened her with her job.</p> <p>11 Q. Well, did you bring an action against Nancy</p> <p>12 for insubordination for telling another</p> <p>13 employee a lie that allegedly you had</p> <p>14 threatened her when, in fact, you hadn't</p> <p>15 threatened?</p> <p>16 MS. NELSON: Object to form.</p> <p>17 A. I don't know if it was insubordination, but</p> <p>18 I -- I remember being upset about her lying</p> <p>19 about that.</p> <p>20 Q. Well, what do you call that when some employee</p> <p>21 tells another employee that you threatened</p> <p>22 them of termination unless they</p> <p>23 changed evaluation.</p>	<p>1 Q. Before I move on to another category, let me</p> <p>2 ask, what role did Mr. Corbin have with city</p> <p>3 magistrates?</p> <p>4 A. He's the city manager. Nothing with the</p> <p>5 day-to-day. He's our city -- the city manager</p> <p>6 at the time.</p> <p>7 Q. What other magistrate evaluation did you</p> <p>8 permit either Mr. Corbin or the city manager</p> <p>9 or anybody else to ever comment upon?</p> <p>10 A. Anybody else. I don't -- none that I</p> <p>11 remember.</p> <p>12 Q. And Mary, she's in personnel; she's the one</p> <p>13 that you said that you went to?</p> <p>14 A. No.</p> <p>15 Q. Is wasn't Mary?</p> <p>16 A. No.</p> <p>17 Q. What was the name?</p> <p>18 MS. NELSON: Martha McClain.</p> <p>19 Q. Martha. Have you ever sought Martha's</p> <p>20 guidance on any other magistrate's evaluation?</p> <p>21 A. On personnel issues. I -- I can't</p> <p>22 specifically say evaluations. But anytime I</p> <p>23 have a personnel issue -- not just Martha but</p>

72 (Pages 285 to 288)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 289

1 personnel in general, Kai, anyone in personnel
2 if we have a question.
3 I had never had a supervisor use stuff
4 that they learned before they were hired in an
5 evaluation, and I didn't know how to handle
6 it.
7 **Q. All right. So this is the first for you,**
8 **right?**
9 A. For a supervisor to use what somebody told her
10 when she was not there or not hired. Yes, I
11 had never encountered that before.
12 **Q. Okay.**
13 A. And I didn't know how to handle it. And it
14 would have been the same if it was anybody's
15 evaluation.
16 **Q. In your response to interrogatory number one,**
17 **you deny that you ever mentioned to Ms. Martin**
18 **that because you was black that city officials**
19 **would not do anything to you.**
20 **Could you have said something that**
21 **Ms. Martin could have misinterpreted to be**
22 **that kind of comment?**
23 A. No.

Page 290

1 **Q. Did you ever have a conversation with**
2 **Ms. Martin where you told her that because you**
3 **are black and a woman that the City wouldn't**
4 **take any action against you?**
5 A. No.
6 **Q. You do know that Ms. Martin have said that,**
7 **correct?**
8 A. Yes.
9 **Q. Ms. Martin also testified that she was**
10 **instructed that whenever a white magistrate**
11 **would do something to cause somebody to be**
12 **wrongfully arrested, you insisted that she**
13 **have a meeting with them but you made light of**
14 **it when people were wrongfully arrested by**
15 **black magistrates.**
16 **Do you dispute that?**
17 A. Yes.
18 **Q. That's not true?**
19 A. No, that is not true.
20 **Q. You did not put her on or instruct her to look**
21 **out for white magistrates making errors that**
22 **could result in somebody's wrongful arrest?**
23 **Is that a yes or no?**

Page 291

1 A. I did not tell Nancy Martin to only look at
2 the white people.
3 **Q. Well, had you made such a comment, would that**
4 **reflect a race consciousness, evidence in a**
5 **premium on being black?**
6 MS. NELSON: Object to the form.
7 A. No. That would be ignorant. I would never
8 say that.
9 **Q. Be ignorant?**
10 A. Ever say that.
11 **Q. Do you feel that black people have a duty to**
12 **defend each other since blacks for years are**
13 **sort of kept out of -- of certain professions**
14 **and certain fields, and once they get there,**
15 **blacks have a duty to look out for each other?**
16 MS. NELSON: Object to the form.
17 A. No, I don't feel that.
18 **Q. Well, if you don't feel that, then to what**
19 **were you referring when you mentioned in Sarah**
20 **Fowler's presence that I was being a traitor?**
21 A. That was a mischaracterization.
22 MS. NELSON: Object to the form.
23 **Q. A mischaracterization of what?**

Page 292

1 A. Of a statement.
2 **Q. Well, what was her statement?**
3 A. Hers or mine?
4 **Q. What was her statement?**
5 A. I don't know.
6 MS. NELSON: Sarah Fowler's statement?
7 **Q. Yeah. What was Sarah Fowler's statement?**
8 A. You just said she said I said that you were a
9 traitor.
10 **Q. Yeah. But you said she misunderstood you.**
11 A. She -- I wasn't talking about you.
12 **Q. You weren't talking about me at all?**
13 A. No.
14 **Q. You was talking about somebody else being a**
15 **traitor?**
16 A. I was.
17 **Q. I see. And so she just assumed you was**
18 **talking about me?**
19 A. Yes.
20 **Q. However, the discussion on the table was about**
21 **me?**
22 A. It was not about you.
23 **Q. Well, isn't it true that one of the**

73 (Pages 289 to 292)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 293

1 attorneys -- and it could have been Shaun --
 2 told you that he had seen me in Judge
 3 Anderson's courtroom or office, somewhere, and
 4 at that time, you made the statement so the
 5 way when he said that he seen me --
 6 A. Do you want me to tell you what happened?
 7 MS. NELSON: I'm not sure if he's got a
 8 question on the table or not.
 9 Q. Well, isn't that when the statement was made,
 10 when he mentioned that?
 11 A. No.
 12 Q. So Sarah Fowler was lying about you?
 13 A. I don't know about what part. I -- I can tell
 14 you what happened but --
 15 Q. Accusing me of being the traitor.
 16 A. Yes. She -- yes. I never accused you of
 17 being a traitor, never.
 18 Q. Okay. I'm willing to allow you to tell me now
 19 since you didn't try to clear that up before
 20 you could --
 21 MS. NELSON: I don't know that she's had
 22 any other time to clear it up before.
 23 I'm not sure what the question is.

Page 294

1 MR. JAFFREE: Well, you may have had
 2 opportunities to clear this up. You
 3 had opportunities to clear it up in
 4 your interrogatory response to
 5 question number one.
 6 MS. NELSON: She respond -- if you asked
 7 the question, she responded.
 8 Q. Well, would you like to clear up how --
 9 somehow she mischaracterized your statement of
 10 the traitor?
 11 MS. NELSON: I object to the form. You
 12 can ask her what she said.
 13 Q. Well, what did you say?
 14 A. I was talking to -- we were in court and --
 15 well, we weren't in court. We were in the
 16 courtroom. It was after court. And Derrick
 17 Yarbrough came in and said that he had seen
 18 you and Judge Anderson talking and laughing at
 19 the courthouse.
 20 And I said, let me call him and tell him
 21 something. And I called Judge Anderson's
 22 secretary, Amanda, and she answered the phone
 23 and said Judge was out.

Page 295

1 And I said, well, you tell him the next
 2 time that woman is out there marching around
 3 with that sign about Judge Anderson hates old
 4 people, I'm going to be out there with her
 5 because he's a traitor.
 6 Q. See, I --
 7 A. And Sarah took that and told you what Mary
 8 Beth or somebody -- and then you took it and
 9 put it in all the writings that I called you a
 10 traitor. And that never happened.
 11 Q. So Ms. Fowler just sort of --
 12 A. Heard one end of a conversation.
 13 Q. One end of a conversation and just assumed
 14 that I was a traitor?
 15 A. No. Well, I don't know what she assumed.
 16 Q. Did you consider me a traitor for representing
 17 them?
 18 A. No. That's your prerogative to do.
 19 Q. Well, what about an Oreo?
 20 MS. NELSON: A what?
 21 Q. An Oreo?
 22 A. What is that? Spell it.
 23 Q. Well, I'll use it in a Native-American

Page 296

1 pollyins. What about an Apple Indian; do you
 2 consider me that?
 3 A. I've never heard the term before.
 4 Q. Oreo cookie is where there's brown on the
 5 outside and white on the inside. It's an
 6 expression.
 7 A. I've never thought of that.
 8 Q. A non-endearing expression that's used for
 9 black people.
 10 A. No, I've never thought of that.
 11 Q. Who have lost their moral compass and stopped
 12 being black for all practical purposes.
 13 You've never considered --
 14 MS. NELSON: Is this your testimony?
 15 A. No.
 16 MR. JAFFREE: Well, the question was
 17 asked, what is it. I'm trying to
 18 explain especially if you're not
 19 familiar with the jargon and what I
 20 thought was so standard in the black
 21 community that I'm surprised the judge
 22 didn't understand what I was saying.
 23 MS. NELSON: Well, is your question, does

74 (Pages 293 to 296)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 297

1 the judge think that you're an Oreo?
2 MR. JAFFREE: Yeah.
3 **Q. Well, do you?**
4 MS. NELSON: I object to that. She can
5 answer. But what in the world does
6 that have to do with this case --
7 MR. JAFFREE: It has --
8 MS. NELSON: -- what she thinks of you?
9 MR. JAFFREE: It has everything to do with
10 her mindset.
11 MS. NELSON: With what?
12 MR. JAFFREE: Her mindset.
13 MS. NELSON: You know, Mr. Jaffree, she is
14 being sued personally by you and your
15 clients and is upset about it. So
16 if -- her mindset about you really is
17 irrelevant to this case. But I'm sure
18 y'all are not best friends. Is that a
19 fair statement?
20 MR. JAFFREE: I never knew it before this
21 case, and I guess I don't know it now.
22 But if, in fact --
23 MS. NELSON: And you want to know if she

Page 298

1 thinks that you're an Oreo. I just
2 think that's a question that's beyond
3 the scope of this lawsuit --
4 MR. JAFFREE: Well, it's not beyond the
5 scope.
6 MS. NELSON: -- and inappropriate to ask.
7 MR. JAFFREE: If, in fact, she perceives
8 me as a traitor --
9 MS. NELSON: She's already testified that
10 she didn't say that.
11 MR. JAFFREE: Yeah. I mean -- yeah. But
12 somebody else testified that she did
13 say that. But if, in fact, I have a
14 duty to follow up because it has an
15 impact on --
16 MS. NELSON: On what?
17 MR. JAFFREE: -- on evading the psyche.
18 MS. NELSON: Whose psyche?
19 MR. JAFFREE: Her psyche.
20 MS. NELSON: That doesn't have anything to
21 do with this case.
22 MR. JAFFREE: Oh, I disagree. I mean, I
23 just simply disagree. You must know

Page 299

1 how much a role --
2 MS. NELSON: If somebody personally sued
3 me, I might not have this fond, warm,
4 fuzzy feeling about them.
5 MR. JAFFREE: You must know what a role
6 motive plays in these cases. You must
7 know that. That requires evading the
8 psyche to determine motive.
9 Anyway, let me get to
10 interrogatory number seven.
11 MS. NELSON: Do you want to show her these
12 interrogatories.
13 MR. JAFFREE: I was looking for them, and
14 I can't find them. I don't have them
15 with me.
16 MS. NELSON: Well, what is it and I'll --
17 MR. JAFFREE: But the question would be
18 reflective of what she said in
19 interrogatory number seven.
20 **Q. You denied in your response to interrogatory**
21 **number seven that you was made aware that**
22 **Magistrate McClain had made error entries**
23 **associated with process of writ of arrest.**

Page 300

1 A. I said, no.
2 **Q. Do you still dispute that you was made aware**
3 **of that?**
4 A. "Errors associated with the processing of writ
5 of arrest."
6 **Q. Do you know what writ of arrest are or alias**
7 **warrants or whatever?**
8 A. That she had errors in processing?
9 **Q. That she had made errors associated with**
10 **processing them. And you said that you was**
11 **not aware of that. Is that still your**
12 **testimony that you was not aware that**
13 **Ms. McCain had made errors?**
14 A. Yeah. Not specifically that errors for the
15 processing of writ of arrest.
16 **Q. Are you saying now you didn't understand the**
17 **question?**
18 A. Well, I just -- I'm not aware of her errors
19 associated with processing of Writs of
20 Arrest.
21 **Q. And nobody had told you about these errors?**
22 A. Not processing Writs of Arrest.
23 Those -- well --

75 (Pages 297 to 300)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 301

1 **Q. Well, how would you define a writ of arrest?**
 2 A. A writ of arrest is when I stamp a warrant for
 3 failure to appear, and then I send it over to
 4 the magistrates' office. I sign it and then
 5 they execute it.
 6 **Q. Well, that's part of the processing, right,**
 7 **the execution?**
 8 A. Right.
 9 **Q. That's part of the processing?**
 10 A. Right.
 11 **Q. Nobody never told you that Ms. McCain had**
 12 **made -- strike that. Either Mary Brackin or**
 13 **Nancy Martin never told you that Ms. McCain**
 14 **made errors in processing these writs? They**
 15 **never mentioned that to you?**
 16 A. Not -- not -- I -- not specifically. I mean,
 17 processing Writs of Arrest, I stamp them.
 18 If -- she wouldn't know whether the person was
 19 there or not. If I called the docket, a
 20 person wasn't there, I stamped it, signed it,
 21 she executed it over in the office. She would
 22 have no way of knowing whether I was right or
 23 wrong about the person --

Page 302

1 **Q. Well, we're not talking about your errors.**
 2 A. No. Well, I don't know how she could
 3 have -- what errors she could have made other
 4 than executing --
 5 **Q. Well, so you're saying nobody else told you.**
 6 **Okay. Fine.**
 7 **Ms. McCain is black; is that correct?**
 8 A. Miss who?
 9 **Q. Ms. McCain is black, Lavera?**
 10 A. McClain?
 11 **Q. McClain. I'm sorry.**
 12 A. Yes.
 13 **Q. All right. The same question was asked in**
 14 **interrogatory number ten with respect to**
 15 **Ms. Knight. And I guess the same answer,**
 16 **right?**
 17 A. It is the way I interpret it because I don't
 18 -- yeah, that same answer. Yes.
 19 **Q. Okay. Now, Ms. Knight is black as well,**
 20 **right?**
 21 A. Yes.
 22 **Q. What is your practice on reviewing alias**
 23 **warrants of arrest processed by magistrates?**

Page 303

1 A. I don't know.
 2 MS. NELSON: What do you mean by
 3 "processed?"
 4 MR. JAFFREE: Well, handled, whatever they
 5 do to them.
 6 **Q. Do you ever review them? Do you have a policy**
 7 **on reviewing these writs that somehow the**
 8 **magistrates have to do something to?**
 9 MS. NELSON: Well, let's clarify for the
 10 Record what we're talking about, "do
 11 something to." I don't know what
 12 you're talking about. She testified
 13 that -- the judge said she will stamp
 14 or execute the warrant.
 15 MR. JAFFREE: And then send them to the
 16 magistrate office.
 17 MS. NELSON: And then let's talk about
 18 what happens there.
 19 **Q. Do you review any of these warrants after they**
 20 **have gone to magistrate office?**
 21 A. No.
 22 **Q. Okay. Had Mary Brackin ever told you anything**
 23 **about data entry errors on the computer made**

Page 304

1 **by Ms. Knight?**
 2 A. "On a computer. I was informed by
 3 Ms. Knight" --
 4 **Q. Well, we're not on the interrogatory anymore.**
 5 **I'm asking you just a question off the**
 6 **interrogatories.**
 7 **I'm asking you have Mary ever told you**
 8 **anything about data entry errors that was made**
 9 **on the computer by Ms. Knight?**
 10 MS. NELSON: Well, that looks like an
 11 interrogatory to me.
 12 A. I said I was informed of it by Ms. Knight
 13 during a time period the department was
 14 changing computer systems.
 15 **Q. Well, what did she tell you -- what did**
 16 **Ms. Knight tell you that Mary -- I'm sorry.**
 17 **What did Mary tell you that Ms. Knight had**
 18 **done?**
 19 A. Well, it wasn't just Ms. Knight. Those were
 20 the -- the reversals. Mary Beth was the
 21 cashier. She did all the reversals. And
 22 every time she did a reversal, she would fill
 23 out a form and -- on every magistrate and send

76 (Pages 301 to 304)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 305</p> <p>1 it over.</p> <p>2 Q. So are you saying that Mary never told you</p> <p>3 anything specific about Ms. Knight?</p> <p>4 A. She might have but also specific to other</p> <p>5 magistrates.</p> <p>6 Q. I wasn't asking you about --</p> <p>7 A. Not in a vacuum.</p> <p>8 Q. I wasn't asking you about other magistrates.</p> <p>9 I was just talking about Ms. Knight.</p> <p>10 A. Well, I -- I would still have to say -- if I</p> <p>11 said, no, I might be lying because she told me</p> <p>12 about everybody's reversals.</p> <p>13 Q. So you don't remember what she may have told</p> <p>14 you -- you don't remember what she may have</p> <p>15 told you about Ms. Knight; is that correct?</p> <p>16 MS. NELSON: What was your question?</p> <p>17 Q. Well, what did she tell you, and you said she</p> <p>18 tell you about everybody.</p> <p>19 Do you remember anything specific that she</p> <p>20 told you about Ms. Knight making data entry</p> <p>21 errors on the computer?</p> <p>22 A. Not specifically, no.</p> <p>23 Q. What about Nancy; did Nancy ever tell you</p>	<p style="text-align: right;">Page 307</p> <p>1 Q. McClain.</p> <p>2 A. She might have.</p> <p>3 Q. Do you remember what it was she told you?</p> <p>4 A. No.</p> <p>5 Q. What about Nancy; have she ever told you</p> <p>6 anything about computer errors made by</p> <p>7 Ms. McClain?</p> <p>8 A. She might have. I don't -- I don't -- not</p> <p>9 specifically.</p> <p>10 Q. You don't recall specifically.</p> <p>11 Now, what did Mary tell you about data</p> <p>12 entry errors on paperwork made by Ms. Knight?</p> <p>13 I'm not talking about the computer now. I'm</p> <p>14 talking about paperwork that she worked on,</p> <p>15 the errors that Ms. Knight makes on</p> <p>16 paperwork.</p> <p>17 MS. NELSON: Again, assumes --</p> <p>18 Q. That Mary told you.</p> <p>19 MS. NELSON: You've not laid a proper</p> <p>20 foundation.</p> <p>21 Q. Well, has Mary ever told you about any errors</p> <p>22 that Ms. Knight made dealing with the</p> <p>23 paperwork you have to deal with? Mary ever</p>
<p style="text-align: right;">Page 306</p> <p>1 about data entry errors made by Ms. Knight on</p> <p>2 the computer?</p> <p>3 MS. NELSON: I thought you just asked her</p> <p>4 that.</p> <p>5 MR. JAFFREE: Well, the first one was</p> <p>6 Mary, what did Mary tell her. The</p> <p>7 next one was, what did Nancy tell you.</p> <p>8 MS. NELSON: Well, you're assuming she</p> <p>9 told her something. Did you ask her</p> <p>10 if Nancy told her anything? Based on</p> <p>11 my questioning of Nancy yesterday, I'm</p> <p>12 not sure she would know what a</p> <p>13 computer error was.</p> <p>14 Q. Did Nancy tell you anything about computer</p> <p>15 errors that Ms. Knight was making?</p> <p>16 A. Not that she had personal knowledge of. She</p> <p>17 might have said that Mary Beth said they were</p> <p>18 making errors.</p> <p>19 Q. But she didn't tell you anything about her own</p> <p>20 personal knowledge. All right.</p> <p>21 Did Mary ever tell you anything about</p> <p>22 computer errors being made by Ms. McCain?</p> <p>23 MS. NELSON: McClain?</p>	<p style="text-align: right;">Page 308</p> <p>1 mention it to you?</p> <p>2 A. Over all the years she might have.</p> <p>3 Q. But you don't remember anything specific?</p> <p>4 A. I mean, not -- no, not just specific.</p> <p>5 Q. And the same question with respect to Nancy.</p> <p>6 MS. NELSON: Meaning did -- will you ask</p> <p>7 the question, did Nancy make her</p> <p>8 aware?</p> <p>9 Q. Did Nancy make you aware of data entry errors</p> <p>10 on paperwork that was made by Ms. Knight?</p> <p>11 A. She might have over the years.</p> <p>12 MS. NELSON: Nancy was only there nine</p> <p>13 months.</p> <p>14 Q. In your testimony on page 15 of Mary Beth's</p> <p>15 hearing, you stated that you never said</p> <p>16 everyone made errors. Is that still your</p> <p>17 position, that you've never said that?</p> <p>18 A. In response to a specific question by her?</p> <p>19 Q. No. On page 15 during my questioning of you,</p> <p>20 you stated that you never -- that you never</p> <p>21 said that everyone makes errors. Is that your</p> <p>22 position, that you never said that?</p> <p>23 A. In life I've never said that or just in</p>

77 (Pages 305 to 308)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 309</p> <p>1 response to Mary Beth specifically?</p> <p>2 Q. With respect to --</p> <p>3 MS. NELSON: Could you show her the</p> <p>4 testimony, please?</p> <p>5 (Brief pause)</p> <p>6 MR. JAFFREE: I'm not sure where I got</p> <p>7 that page 15 from, page 15 of</p> <p>8 something. But it may not be this</p> <p>9 transcript here because I don't think</p> <p>10 you was on page 15.</p> <p>11 Q. Well, let me ask the question in general. Do</p> <p>12 you recall telling Nancy when she was</p> <p>13 complaining about errors made by either Eunice</p> <p>14 or Lavera that everyone makes errors?</p> <p>15 MS. NELSON: Again, object to form. I'm</p> <p>16 not sure there's any testimony that</p> <p>17 Nancy made complaints about them</p> <p>18 making errors.</p> <p>19 MR. JAFFREE: Well, there was complaints.</p> <p>20 There was a lot of testimony to that.</p> <p>21 MS. NELSON: Well, the judge --</p> <p>22 MR. JAFFREE: The judge can answer whether</p> <p>23 or not she --</p>	<p style="text-align: right;">Page 311</p> <p>1 March 10th, 2005, did you have a meeting with</p> <p>2 your staff where you told them to make no</p> <p>3 contact with Mary Turner?</p> <p>4 A. I don't remember the specific date.</p> <p>5 Q. All right. Well, do you recall ever having a</p> <p>6 meeting with the staff where you told them to</p> <p>7 make no contact -- have no contact with Mary</p> <p>8 Turner?</p> <p>9 A. I remember the investigators going up to the</p> <p>10 office with us and telling us to inform them</p> <p>11 to not mess with the computer, not contact her</p> <p>12 for a short period of time because they were</p> <p>13 trying to control the computer system and</p> <p>14 access to her office.</p> <p>15 Q. Did you do anything to suggest that this was</p> <p>16 limited to a short period of time?</p> <p>17 A. Well, I told them that they were right in</p> <p>18 the -- we were investigating -- I don't know</p> <p>19 because I was trying to be protective. I</p> <p>20 don't know what I told them, but it was</p> <p>21 certainly for a short period of time, to not</p> <p>22 contact her, not touch the computer until we</p> <p>23 let them know. They were trying to get in</p>
<p style="text-align: right;">Page 310</p> <p>1 MS. NELSON: -- does not recall.</p> <p>2 MR. JAFFREE: -- ever told her that.</p> <p>3 Q. Do you know whether you told her that everyone</p> <p>4 makes errors?</p> <p>5 A. I don't remember saying it in regard to a</p> <p>6 specific matter.</p> <p>7 Q. In defense of either Eunice or Lavera --</p> <p>8 A. Or anyone.</p> <p>9 Q. -- but you said everybody make errors.</p> <p>10 A. I just -- not in relation to a specific thing.</p> <p>11 Q. I have a series of questions relating to</p> <p>12 pages. I don't know where I got this from.</p> <p>13 And in benefit to you, I'm not asking you</p> <p>14 these questions that I've got pages numbers on</p> <p>15 because I don't know what that relates to.</p> <p>16 Now, let me ask you this: On or about</p> <p>17 March the 10th of 2004 -- or was it 2005? I</p> <p>18 think -- it may have been 2005. Did you tell</p> <p>19 the staff to make no contact with Mary Turner?</p> <p>20 MS. NELSON: Again I would -- you're</p> <p>21 asking 2004, 2005? Would you put this</p> <p>22 in some context?</p> <p>23 Q. Let me see here. It was in 2005, on or about</p>	<p style="text-align: right;">Page 312</p> <p>1 touch with Tim Stewart to freeze her computer</p> <p>2 so that they couldn't change anything.</p> <p>3 Q. Let me show you this. Let me -- this is not</p> <p>4 necessarily the best copy, but we'll call this</p> <p>5 Plaintiffs' Exhibit 5 --</p> <p>6 MS. NELSON: Well, don't put it -- you're</p> <p>7 putting it over my sticker. That was</p> <p>8 my -- also -- I'm sorry. I already</p> <p>9 had that sticker on it.</p> <p>10 MR. JAFFREE: I done forgot where this</p> <p>11 came from. This came from somewhere.</p> <p>12 (Plaintiffs' Exhibit 7 was marked</p> <p>13 for identification.)</p> <p>14 Q. Let me show you what's been marked as</p> <p>15 Plaintiffs' 7 and see if you can recognize</p> <p>16 that document.</p> <p>17 COURT REPORTER: Mr. Jaffree, was that 7?</p> <p>18 MR. JAFFREE: Yes, 7.</p> <p>19 COURT REPORTER: Because you said 5 first,</p> <p>20 and then you said 7.</p> <p>21 MR. JAFFREE: Well, I'm sorry. Yeah, it</p> <p>22 said 5 on there, but it was 7.</p> <p>23 Q. Do you recognize that document?</p>

78 (Pages 309 to 312)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 313

1 A. Yes.
 2 **Q. Is there anywhere on that document where you**
 3 **make reference to a short period of time?**
 4 A. No. But I think -- that was my understanding,
 5 that it was just until they could get control
 6 of the computer system in her office.
 7 **Q. Control of the computer system.**
 8 A. Of the -- of her computer so nobody could go
 9 in and change anything.
 10 **Q. So they should limit their contact for the**
 11 **time it took them to get the control of the**
 12 **computer?**
 13 MS. NELSON: Well, I think Number 7 can
 14 speak for itself. It says "while the
 15 internal investigation conducted by
 16 the Dothan Police Department was
 17 underway."
 18 **Q. So it was broader that just simply control of**
 19 **the computer?**
 20 A. Among other things, the investigation. They
 21 wanted to -- they wanted to freeze her
 22 computer. They're trying to get in touch with
 23 Tim Stewart to freeze the computer. They were

Page 314

1 investigating these complaints, and they
 2 didn't want anybody calling her or colluding
 3 with her, is my understanding. So they just
 4 said, no exact. It was the -- the internal --
 5 the investigators told us to go tell them to
 6 not contact her.
 7 **Q. But by what authority did the investigators**
 8 **have to tell you to tell your staff not to**
 9 **contact Ms. Martin?**
 10 MS. NELSON: If you know.
 11 **Q. If you know, by what authority?**
 12 A. Yeah. I don't know. They were investigators,
 13 and I didn't question their investigation at
 14 that point.
 15 **Q. Did these people control your office?**
 16 A. No.
 17 **Q. Okay. Can I see that document back again for**
 18 **a minute? Now --**
 19 MS. NELSON: If I can state for the
 20 Record, I mean, there was a police
 21 department investigation --
 22 MR. JAFFREE: I could care less --
 23 MS. NELSON: -- of criminal activity going

Page 315

1 on.
 2 You could care less?
 3 MR. JAFFREE: I care less about that. I
 4 care less about that. Let me -- these
 5 people -- these police don't have any
 6 authority to go in there and just
 7 dictate who could talk to people.
 8 MS. NELSON: When an employee of the City
 9 of Dothan is under a criminal
 10 investigation --
 11 MR. JAFFREE: Yeah, yeah.
 12 MS. NELSON: -- it's your position that
 13 they cannot do that?
 14 MR. JAFFREE: That's my position,
 15 absolutely.
 16 **Q. All right. You also indicate -- by the way,**
 17 **who did you write this for? Who were you**
 18 **giving this to? By this, for the Record, I'm**
 19 **talking about Plaintiffs' Exhibit Number 7?**
 20 A. I don't remember.
 21 **Q. Why did you write -- were you writing that for**
 22 **yourself? Who was that intended for?**
 23 A. I don't remember why I did it.

Page 316

1 **Q. Why the seven-day gap between the date that**
 2 **that notation is done from the date that you**
 3 **allegedly told the staff not to do this?**
 4 A. I don't remember.
 5 **Q. You don't know about that seven-day gap and**
 6 **you don't know who this was for?**
 7 A. No.
 8 **Q. Did you give this to anybody?**
 9 A. I don't remember, honestly.
 10 **Q. Did you give this to staff? All right.**
 11 **You also said that you instructed them**
 12 **that "no discussion with anyone regarding this**
 13 **matter was to take place."**
 14 **Do you remember telling them that as well,**
 15 **no discussion with anybody?**
 16 A. I don't remember specifically but possibly, if
 17 that's what the memo said.
 18 **Q. Now, you remember, I told you, you were going**
 19 **to hear this word again. And so I'm going to**
 20 **say it now.**
 21 **Could you identify with me in detail what**
 22 **mischief you thought to prevent with your**
 23 **directive that the staff was not to contact**

79 (Pages 313 to 316)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 317

1 **Mary Turner?**
 2 MS. NELSON: Object to the form. She's
 3 already answered the question. I
 4 object to the term.
 5 MR. JAFFREE: She's not answered that
 6 question.
 7 MS. NELSON: Yes, she has. She said the
 8 investigators instructed --
 9 MR. JAFFREE: Can you let her --
 10 MS. NELSON: She's answered the question.
 11 MR. JAFFREE: She haven't answered the
 12 question.
 13 MS. NELSON: If you would listen, she has
 14 answered the question.
 15 **Q. Let me ask you this: Other than some**
 16 **investigator, who was it that told you this?**
 17 A. I don't remember specifically. There were two
 18 investigators I think at the time. And I
 19 don't remember which of them said it.
 20 **Q. Some investigator told you -- came out and**
 21 **told you, instruct the staff -- instruct your**
 22 **staff to have no contact with Mary Turner?**
 23 A. Yes. I was in the courtroom, and they came in

Page 318

1 and said, we need to get control of the
 2 office --
 3 MS. NELSON: Say who "they" is.
 4 A. The investigators. It was either Keith
 5 Gray --
 6 MS. NELSON: From the police department.
 7 A. From the police department. Keith Gray, Ray
 8 Owens or one of those two.
 9 **Q. What limitation did they put on this no**
 10 **contact?**
 11 A. Just that what -- well, it was my
 12 understanding -- and I think I conveyed
 13 that -- that it was until they could get
 14 control of the computer system because I put
 15 in there, nobody was to go in her office.
 16 They were investigating the allegation that
 17 there had been ticket fixing in the office,
 18 and they didn't want anybody colluding with
 19 anyone else.
 20 **Q. Well, when did they get control of the**
 21 **computer system?**
 22 A. I don't know at what point.
 23 **Q. Well, let's --**

Page 319

1 A. But it wasn't just the computer system. They
 2 were investigating. It was a criminal
 3 investigation.
 4 **Q. Well, you just said it was until they could**
 5 **get control of the computer system. You want**
 6 **to back away from that testimony?**
 7 MS. NELSON: She said that and other
 8 things.
 9 A. Yeah, other -- it was other --
 10 **Q. Well, what other things? Tell me the whole**
 11 **host of other things that they was concerned**
 12 **about?**
 13 A. I wasn't a part of criminal investigation.
 14 They were concerned that a crime had been
 15 committed. There were allegations --
 16 MS. NELSON: You let her answer.
 17 A. There were allegations that a magistrate had
 18 extorted a defendant in our court, and they
 19 wanted to -- they were investigating that.
 20 And so they wanted me to tell them not to
 21 contact Mary, not to go in her office and mess
 22 with the computer.
 23 I knew that one of the things they were

Page 320

1 doing was trying to get the computer. They
 2 kept saying, we're trying to get the computer
 3 so nobody can go in and change anything. They
 4 were investigating. So it was my -- I didn't
 5 think it was forever, just as long as they
 6 were investigating.
 7 **Q. Well, when did they tell you that the**
 8 **investigation was complete?**
 9 A. I don't remember, but I even told them that
 10 day that if they wanted to talk with Mary
 11 after hours to let me know, and I would ask
 12 the investigators how to handle that. I
 13 didn't know. I wasn't trying to tell them not
 14 to ever associate with her, just while the --
 15 the criminal was going on.
 16 **Q. You haven't answered my question. When did**
 17 **they tell you their investigation was**
 18 **complete?**
 19 A. I don't remember the date.
 20 **Q. Did they ever tell you their investigation was**
 21 **complete?**
 22 A. I'm sure at some point they said, it's okay.
 23 **Q. Did you have a meeting with the staff telling**

80 (Pages 317 to 320)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 321

1 them that the investigation is complete and
 2 now you can contact Mary?
 3 A. I don't remember.
 4 **Q. Well, how would the staff know when it's okay**
 5 **to contact Mary?**
 6 A. Well, it would have been communicated to them
 7 in some way.
 8 **Q. Well, did you communicate it to them in some**
 9 **way?**
 10 A. I'm sure -- I don't remember because Mary was
 11 eventually charged with criminal charges and
 12 everything else transpired.
 13 **Q. If somebody says you never communicated to**
 14 **them in some way that the investigation was**
 15 **over, would you be in a position to dispute**
 16 **that?**
 17 A. That I never communicated --
 18 **Q. You never communicated to them that the**
 19 **investigation was over.**
 20 A. I would dispute that. I mean, I -- nobody
 21 ever came and asked me, could they contact
 22 Mary and I said, no, you're -- no. So I would
 23 dispute that.

Page 322

1 **Q. So you did tell them at some point the**
 2 **investigation was over?**
 3 A. I just don't remember specifically how it
 4 happened.
 5 **Q. Well, is that something you would remember?**
 6 A. There was so much going on that -- during that
 7 time, and we were trying to be protective of
 8 Mary because they were simply allegations at
 9 that point.
 10 **Q. Protective of Mary?**
 11 A. Yeah. Because there was a lot of rumor and
 12 allegation. And I just asked them not to talk
 13 about it.
 14 **Q. How would Mary be placed in jeopardy by**
 15 **somebody talking to Mary?**
 16 A. No. The rumors and the allegations. Nobody
 17 knew for sure, and it was just allegation.
 18 **Q. Answer my question.**
 19 A. I just asked them to stop talking about it.
 20 **Q. Answer my question: How would Mary be harmed**
 21 **by somebody talking to Mary?**
 22 A. How would she be harmed?
 23 **Q. You said you wanted to protect Mary. Are we**

Page 323

1 talking about Mary Turner?
 2 A. I wanted to protect her reputation and her
 3 character. At that point, it was just simply
 4 allegations. We didn't know if they were true
 5 or not, and I didn't think they should be
 6 running around talking about it.
 7 **Q. So that's why you didn't want staff to talk**
 8 **to --**
 9 A. No. I did that at the behest of the
 10 investigators.
 11 **Q. Did you not want staff to talk to each other**
 12 **as well?**
 13 A. No. I think I said other -- talking about it.
 14 I meant generally.
 15 **Q. All right. But were you trying to protect**
 16 **Mary by telling staff, have no contact with**
 17 **her?**
 18 A. No. I was following the directive of
 19 the criminal investigators who were handling
 20 that case.
 21 **Q. Well, what specifics in this Defendants' 7 was**
 22 **designed to protect Mary?**
 23 MS. NELSON: I don't know that she ever

Page 324

1 testified to that.
 2 MR. JAFFREE: She said she was trying to
 3 protect Mary.
 4 A. Well, I -- I was in my mind trying to tell
 5 them to stop talking about -- it was just
 6 simply allegations going around.
 7 **Q. I'm a little bit confused. How many people in**
 8 **addition to yourself knew that there was a**
 9 **criminal investigation going on?**
 10 A. How many people? I have no way of knowing
 11 because once I met with Personnel, the legal
 12 department, and the police chief, that was the
 13 extent of my -- I never got back involved with
 14 it.
 15 **Q. Well, do you know whether --**
 16 A. So I don't know who they told.
 17 **Q. Do you know whether Mary knew that there was a**
 18 **criminal investigation going -- Mary Turner**
 19 **knew that there was a criminal investigation**
 20 **going on concerning her?**
 21 A. No, I don't know.
 22 **Q. Do you know if any of the other magistrates**
 23 **knew that there was a criminal investigation**

81 (Pages 321 to 324)

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 325	Page 327
<p>1 going on concerning Mary?</p> <p>2 A. Do I have personal knowledge that they knew?</p> <p>3 Q. Yeah, personal knowledge.</p> <p>4 A. I have no personal knowledge that they knew.</p> <p>5 Q. Well, if they didn't know a criminal</p> <p>6 investigation was going on, what could they</p> <p>7 possibly tell Mary in contacting Mary that</p> <p>8 would interfere with the criminal</p> <p>9 investigation?</p> <p>10 A. You want me to answer it?</p> <p>11 Q. Well, if you can.</p> <p>12 A. Well, there was a lot of allegations, rumors</p> <p>13 just going around that Mary Turner was in</p> <p>14 trouble because this guy had come in, talking</p> <p>15 about fixing tickets. Just -- I guess it was</p> <p>16 just a normal leak, but nothing had been</p> <p>17 substantiated. I never told them about the</p> <p>18 allegations, but I knew there was a lot of</p> <p>19 whispering and rumors going on. And for that</p> <p>20 reason, I asked them to not to --</p> <p>21 MS. NELSON: Let her answer.</p> <p>22 MR. JAFFREE: Well, I'm stopping her</p> <p>23 because she's not answering my</p>	<p>1 MS. NELSON: How do you know that?</p> <p>2 A. -- she knew.</p> <p>3 MS. NELSON: There's no testimony to that.</p> <p>4 MR. JAFFREE: Do you have your records?</p> <p>5 MS. NELSON: You're trying to testify on</p> <p>6 her behalf. There's absolutely no</p> <p>7 evidence in this proceeding that she</p> <p>8 didn't know what was going on.</p> <p>9 MR. JAFFREE: Assuming --</p> <p>10 MS. NELSON: She knew full well what she</p> <p>11 was being suspended for.</p> <p>12 MR. JAFFREE: Assuming these documents are</p> <p>13 true--</p> <p>14 MS. NELSON: What documents, Mr. Jaffree?</p> <p>15 MR. JAFFREE: The documents that I'm</p> <p>16 looking at. Let me move on because I</p> <p>17 don't want to --</p> <p>18 MS. NELSON: Mary Turner was ultimately</p> <p>19 indicted of a criminal offense. And</p> <p>20 as I understand it, entered a -- had</p> <p>21 some kind of deferred prosecution or</p> <p>22 something. But she was under criminal</p> <p>23 investigation for a very serious</p>
Page 326	Page 328
<p>1 questions.</p> <p>2 MS. NELSON: You don't like what she has</p> <p>3 to say. That's the reason you're</p> <p>4 stopping her.</p> <p>5 MR. JAFFREE: But she's not answering my</p> <p>6 question. I asked her, what could</p> <p>7 they tell Mary that would interfere</p> <p>8 with the investigation. I'm trying to</p> <p>9 find out. If they didn't know</p> <p>10 anything and if Mary --</p> <p>11 MS. NELSON: She didn't know what they</p> <p>12 knew. They could do a lot.</p> <p>13 MR. JAFFREE: Well, tell -- I want her to</p> <p>14 tell me a lot of what they could do</p> <p>15 that interfered with the</p> <p>16 investigation.</p> <p>17 A. Well, if they contacted Mary, she could tell</p> <p>18 them to go in the computer and delete the</p> <p>19 files of the other Phelps boy's tickets who --</p> <p>20 that had been --</p> <p>21 Q. She didn't know what the investigation was</p> <p>22 about.</p> <p>23 A. I don't know whether --</p>	<p>1 charge.</p> <p>2 MR. JAFFREE: It's in the record that she</p> <p>3 was charged with a misdemeanor and not</p> <p>4 found guilty of any misdemeanor. But</p> <p>5 be that as it may, we're talking about</p> <p>6 a single ticket.</p> <p>7 MS. NELSON: This all your</p> <p>8 characterization.</p> <p>9 MR. JAFFREE: Well, how many tickets are</p> <p>10 we talking about. I thought we was</p> <p>11 talking about a single traffic ticket.</p> <p>12 We're not talking about any espionage</p> <p>13 or forgery or whatever she was charged</p> <p>14 with that --</p> <p>15 THE WITNESS: Extortion.</p> <p>16 MS. NELSON: She was charged with</p> <p>17 extortion.</p> <p>18 MR. JAFFREE: Yeah. But she wasn't</p> <p>19 charged with extortion. She just</p> <p>20 simply wasn't. That's not true.</p> <p>21 That's not part of the record. You</p> <p>22 can't find a record where she was</p> <p>23 charged with extortion. She wasn't.</p>

82 (Pages 325 to 328)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 329

1 And if I have to prove -- present a
 2 document to establish that, I will.
 3 Since I represented her, I know.
 4 But, anyway, be that as it may, I
 5 want to go on.
 6 **Q. Did you explain to the staff why this**
 7 **no-contact directive was important?**
 8 MS. NELSON: I think asked and answered.
 9 **Q. Can you answer the question, yes or no?**
 10 A. Why I thought it was important or why it was
 11 important?
 12 **Q. Why the no-contact directive was important?**
 13 **Did you explain to them why it was important?**
 14 A. It was important -- no, I didn't -- I don't
 15 know if I said why it was important. I just
 16 told them that we were not to contact Mary
 17 pending this investigation.
 18 **Q. So you didn't tell them why it was important.**
 19 A. And if they wanted to talk with her after
 20 hours to let me know, and I would ask how they
 21 needed to do that.
 22 **Q. Did you place any limits on this prohibition?**
 23 A. Limits such as?

Page 330

1 MS. NELSON: Asked and answered.
 2 MR. JAFFREE: That's not asked --
 3 **Q. Did you place any limits on the prohibition,**
 4 **no contact? Were there any limits to it, or**
 5 **was it absolute, don't contact her in church,**
 6 **don't say hello?**
 7 A. I told --
 8 MS. NELSON: Asked and answered.
 9 A. I told them if they wanted to talk
 10 with -- contact her -- no. I didn't tell them
 11 not to go to church or after hours. I told
 12 them they could talk with her after hours, let
 13 me know, and I'd find out -- you know, tell
 14 the investigators, they go to church with them
 15 or whatever.
 16 **Q. Well, you'd have to consult with the**
 17 **investigators before they would be permitted**
 18 **to talk to them after hours?**
 19 A. No. I -- I just told them to let me know if
 20 they wanted to talk with her after hours. I
 21 didn't know how to handle that.
 22 **Q. I read everybody's transcript. I don't**
 23 **remember anybody saying that you told them**

Page 331

1 **that they could talk to her after hours if**
 2 **they contact you and get clearance. I don't**
 3 **recall --**
 4 MS. NELSON: I don't know whose transcript
 5 you are even talking about.
 6 MR. JAFFREE: All the magistrates'.
 7 MS. NELSON: There's no testimony in this
 8 case about any magistrates.
 9 MR. JAFFREE: All the magistrates'.
 10 There's nothing to that effect. So --
 11 MS. NELSON: That's your statement,
 12 Mr. Jaffree.
 13 MR. JAFFREE: Well, fine.
 14 MS. NELSON: And I move to strike it.
 15 MR. JAFFREE: Fine. Fine. Fine.
 16 **Q. Were you acting in your administrative or**
 17 **judicial capacity when you issued your**
 18 **no-contact directive?**
 19 A. I'm reticent about saying it was my no-contact
 20 directive. I didn't -- you know, it wasn't at
 21 my behest or my initiation. I simply did what
 22 the investigators told me was necessary at the
 23 time. So I don't --

Page 332

1 **Q. Well, you adopted that no-contact directive,**
 2 **didn't you?**
 3 MS. NELSON: Object to the
 4 characterization. She said she --
 5 adopt, she never said she adopted it.
 6 MR. JAFFREE: I'm asking her.
 7 MS. NELSON: She said she communicated it.
 8 MR. JAFFREE: I'm asking her.
 9 A. I communicated it.
 10 **Q. Did you adopt their no-contact directive to**
 11 **you as your no-contact directive?**
 12 MS. NELSON: Object to the form. She's
 13 testified as to what she did.
 14 THE WITNESS: Right.
 15 **Q. There's -- no, no. Right? Yes or no, did you**
 16 **adopt their no-contact directive --**
 17 **MS. NELSON: Object to the form.**
 18 **Q. -- as your no-contact directive?**
 19 A. I wouldn't say I adopted it. But, you know,
 20 they're criminal investigators. If they come
 21 in there and say, go tell them not to talk to
 22 Mary, not to come to that computer, I wouldn't
 23 have said, no, I'm not going to do that.

83 (Pages 329 to 332)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 333	Page 335
<p>1 Q. Did you --</p> <p>2 A. So I did not adopt it. I'd simply</p> <p>3 communicated the no-contact order that was</p> <p>4 communicated to me by the criminal</p> <p>5 investigators.</p> <p>6 Q. Did you initiate --</p> <p>7 A. I did not.</p> <p>8 Q. Well, can I finish my question?</p> <p>9 Did you initiate any disciplinary action</p> <p>10 because your no-contact directive was</p> <p>11 breached?</p> <p>12 A. Did I initiate any disciplinary action because</p> <p>13 "the" no-contact order was breached?</p> <p>14 Q. Yeah, because the no-contact order was</p> <p>15 breached?</p> <p>16 A. I don't remember.</p> <p>17 Q. Did you charge somebody with insubordination</p> <p>18 because the no-contact order was breached?</p> <p>19 A. Yes.</p> <p>20 Q. Was it because of your no-contact order was</p> <p>21 breached or the police department's no-contact</p> <p>22 order was breached?</p> <p>23 MS. NELSON: I object to the form.</p>	<p>1 A. Because it was in place at the time. I</p> <p>2 communicated it. And I told them, you know,</p> <p>3 do not contact Mary. And I told them that the</p> <p>4 investigators said, you know, not to contact</p> <p>5 Mary, it was an investigation.</p> <p>6 And your client, Mary Beth Brackin, said,</p> <p>7 why are you looking at me?</p> <p>8 I said, because I know that you and she</p> <p>9 are friends, and if you want to contact her,</p> <p>10 let me know. I told Mary Beth that in front</p> <p>11 of every magistrate. And every one of them</p> <p>12 will tell you that I told her that because she</p> <p>13 was the only one that spoke out and said, why</p> <p>14 are you looking at me.</p> <p>15 I said, because I know you and Mary are</p> <p>16 friends. And if you want to contact her, let</p> <p>17 me know.</p> <p>18 And she didn't say a word.</p> <p>19 Q. Did you expect staff, including Ms. Brackin,</p> <p>20 to use their own discretion on what contacts</p> <p>21 with Ms. --</p> <p>22 A. No.</p> <p>23 Q. -- Turner was permissible?</p>
Page 334	Page 336
<p>1 A. And I think they're one in the same. There</p> <p>2 was a no-contact order in place.</p> <p>3 Q. So you adopted it?</p> <p>4 MS. NELSON: Object to the form.</p> <p>5 Q. So you adopted it?</p> <p>6 MS. NELSON: That's your characterization?</p> <p>7 MR. JAFFREE: Well, she said "one in the</p> <p>8 same." What does that mean? What</p> <p>9 does "one in the same" mean to you?</p> <p>10 MS. NELSON: It's one in the same. Accept</p> <p>11 her testimony. And she's not saying</p> <p>12 she adopted it. Just ask her</p> <p>13 factually what happened. You don't</p> <p>14 like what she says, and you just get</p> <p>15 hung up on your version of the way you</p> <p>16 want to hear it.</p> <p>17 Q. If you didn't --</p> <p>18 MS. NELSON: You can ask her factually</p> <p>19 what happened.</p> <p>20 MR. JAFFREE: Wait a minute. I'm asking</p> <p>21 her.</p> <p>22 Q. If you didn't adopt it, why did you discipline</p> <p>23 somebody for its breach?</p>	<p>1 A. No. It was clear that they were not to</p> <p>2 contact her or go in her office.</p> <p>3 Q. Did you intend your directive to be all</p> <p>4 inclusive, sweeping, and cover the universe of</p> <p>5 possible contacts?</p> <p>6 A. No. That's why I gave her the option of</p> <p>7 contacting her after hours.</p> <p>8 Q. Did you say, no, that she was free to contact</p> <p>9 her after hours?</p> <p>10 A. She never asked.</p> <p>11 Q. Was she free to contact her after hours?</p> <p>12 A. If she had asked, possibly.</p> <p>13 Q. Well, had she contacted --</p> <p>14 A. She said she didn't have any reason to.</p> <p>15 Q. Had she contacted you to contact her after</p> <p>16 hours, would you have granted that contact?</p> <p>17 A. I don't know. I mean, I -- I -- just --</p> <p>18 supposition.</p> <p>19 MS. NELSON: Ms. Brackin was disciplined</p> <p>20 for insubordination for a phone call</p> <p>21 that she made during office hours,</p> <p>22 which she's admitted to. And the</p> <p>23 judge has already dismissed that count</p>

84 (Pages 333 to 336)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 337

1 in your case. And so --
 2 MR. JAFFREE: Can I continue?
 3 MS. NELSON: -- we're beating a dead
 4 horse.
 5 MR. JAFFREE: I appreciate your giving a
 6 closing and an ultimate statement or
 7 whatever kind of statement.
 8 MS. NELSON: I'm just telling you --
 9 MR. JAFFREE: But if I could go on.
 10 **Q. Were there any time or date or circumstances,**
 11 **exceptions to your directive?**
 12 A. If they wanted to contact her after hours.
 13 MS. NELSON: Asked and answered.
 14 **Q. Were you aware that Ms. Turner and Ms. Brackin**
 15 **were close friends?**
 16 MS. NELSON: Asked and answered or at
 17 least answered.
 18 **Q. Were you?**
 19 A. I thought they were.
 20 **Q. Okay. Did you know that they visit each**
 21 **other's homes?**
 22 A. No, I didn't know that.
 23 **Q. That they attended the same church?**

Page 338

1 A. No. I thought Mary Beth went to a different
 2 church.
 3 **Q. They went out socially together? Were you**
 4 **aware of that?**
 5 A. Mary Beth told me that Mary Turner's husband
 6 had been having improper sexual advances with
 7 a nephew --
 8 **Q. I didn't ask you about any --**
 9 A. -- and she wasn't comfortable being around
 10 him.
 11 **Q. I didn't ask you that.**
 12 A. That's what I'm telling you.
 13 MS. NELSON: Well, you did. You asked
 14 her.
 15 A. That's why I laughed when you said --
 16 **Q. I didn't ask you anything about her husband.**
 17 **I asked you --**
 18 A. No. You said did they have social -- I'm
 19 sorry -- did they have social contact. So I
 20 wouldn't think they would because Mary Beth
 21 told me that Mary Turner's husband performed
 22 fellatio on his 18-month-old nephew, and she
 23 wasn't comfortable with her son being around

Page 339

1 him.
 2 **Q. All right.**
 3 A. That's what Mary Beth Brackin said. So I
 4 wouldn't think they would socialize. But,
 5 now, I don't know.
 6 **Q. Were you aware that they frequently spoke to**
 7 **each other on the phone when not at work?**
 8 A. No, I was not aware of that.
 9 **Q. Were you aware that they enjoyed the presence**
 10 **of each other's company?**
 11 MS. NELSON: Asked and answered.
 12 A. She told me she didn't like him around her
 13 child since he liked to have sex with boys.
 14 **Q. I wasn't talking about him. I'm talking about**
 15 **the two of them.**
 16 A. I don't know. I would think she wouldn't have
 17 been comfortable with them around.
 18 **Q. Would your knowledge of a close relationship**
 19 **and a frequent non-work-related contact**
 20 **between the two of them have made a difference**
 21 **in your directive or how you would implement**
 22 **it?**
 23 A. I wasn't aware that there was one.

Page 340

1 **Q. But if you were aware that they had a close**
 2 **relationship, would that have made**
 3 **a difference in your directive?**
 4 A. Well, that's why I gave her the option of
 5 talking to her after hours. I told her that
 6 if she wanted to talk with them after hours,
 7 let me know.
 8 **Q. Given your understanding of the prohibition of**
 9 **the state and understanding with the right**
 10 **that all free citizens have to associate with**
 11 **each other, do you think in hindsight that**
 12 **your directive was overbroad?**
 13 MS. NELSON: Object to the form. Calls
 14 for legal conclusions.
 15 **Q. Do you understand what overbroad means?**
 16 A. Yes.
 17 **Q. Do you think that maybe in hindsight your**
 18 **directive was overbroad?**
 19 MS. NELSON: Object to the form.
 20 A. And it was not -- and I say it was not my
 21 directive. It was not -- I would have not
 22 thought to just go up there and say, y'all
 23 don't do this or y'all don't speak to

85 (Pages 337 to 340)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 341</p> <p>1 anybody. I was directed there was a criminal</p> <p>2 investigation going and they didn't want them</p> <p>3 colluding or tampering with evidence. And</p> <p>4 that's what I communicated to them.</p> <p>5 Q. Now, did you testify already how you learned</p> <p>6 that the police investigation was completed?</p> <p>7 A. I'm sure just I got the results -- no, I did</p> <p>8 not testify to that. I don't remember.</p> <p>9 Q. Don't remember. So you don't know how you</p> <p>10 learned that it was completed. When was it</p> <p>11 completed?</p> <p>12 A. I don't remember specific dates.</p> <p>13 Q. You don't know who told it was completed?</p> <p>14 MS. NELSON: Asked and answered.</p> <p>15 A. I think -- I think Mary Turner's husband wrote</p> <p>16 me, telling me about other defendants to look</p> <p>17 into that she might have fixed their tickets</p> <p>18 for, and could we reopen it. And that's when</p> <p>19 I knew that it was closed.</p> <p>20 Q. Now, did you say you did or did not</p> <p>21 communicate to staff after the investigation</p> <p>22 was completed?</p> <p>23 MS. NELSON: Object to the form.</p>	<p style="text-align: right;">Page 343</p> <p>1 MS. NELSON: If you know.</p> <p>2 A. I don't remember. I was not a part -- I was</p> <p>3 not involved in that.</p> <p>4 Q. Was Officer Gray involved in that</p> <p>5 interrogation of your staff?</p> <p>6 MS. NELSON: Object to the form.</p> <p>7 A. Was Officer Gray involved in the investigation</p> <p>8 of Mary Turner's criminal complaint?</p> <p>9 Q. Well, you prefer that word rather than</p> <p>10 interrogation?</p> <p>11 A. I don't know specifically which investigator</p> <p>12 was -- there were two I think at the time.</p> <p>13 I'm not sure which.</p> <p>14 Q. Did one of the police officers give you a</p> <p>15 recommendation of what rule or regulation of</p> <p>16 the personnel board that Ms. Turner -- I'm</p> <p>17 sorry, strike that -- Ms. Brackin may have</p> <p>18 violated by contacting Ms. Turner?</p> <p>19 A. It might have been a part of their findings</p> <p>20 that -- in their investigation that these were</p> <p>21 the Personnel Rules and Regulations that were</p> <p>22 broken.</p> <p>23 Q. Do you know upon what authority does the</p>
<p style="text-align: right;">Page 342</p> <p>1 A. I don't remember specifically.</p> <p>2 Q. Don't remember. Okay. Was the no-contact</p> <p>3 prohibition expected to last indefinitely?</p> <p>4 A. No.</p> <p>5 MS. NELSON: Asked and answered.</p> <p>6 Q. How was the staff to know when it was okay to</p> <p>7 resume contact with Ms. Turner?</p> <p>8 A. I guess that they would have been told. I</p> <p>9 don't remember how it happened.</p> <p>10 Q. They were expected to know by being told,</p> <p>11 huh? Okay. But you don't know whether they</p> <p>12 was told or not.</p> <p>13 Now, do you know pursuant to what</p> <p>14 authority the police officers interviewed the</p> <p>15 staff concerning your no-contact directive?</p> <p>16 A. No, I don't.</p> <p>17 Q. I understand that there was some posting on a</p> <p>18 web site of the fact that Ms. Turner was under</p> <p>19 investigation; is that correct?</p> <p>20 A. I have no personal knowledge. I didn't see it</p> <p>21 on the web site.</p> <p>22 Q. Is that posting the trigger for the decision</p> <p>23 of police officers to interview your staff?</p>	<p style="text-align: right;">Page 344</p> <p>1 police department have in informing you what</p> <p>2 personnel rules have been broken by an</p> <p>3 employee under your charge?</p> <p>4 A. I think that was just the result of their</p> <p>5 investigation, that the results of their</p> <p>6 investigation revealed that those rules had</p> <p>7 been broken. They did not dictate those</p> <p>8 disciplinary charges to me. They just</p> <p>9 probably mentioned them in their investigative</p> <p>10 report.</p> <p>11 Q. Did the police report that you received</p> <p>12 recommend that you terminate Ms. Brackin?</p> <p>13 A. I don't remember specifically.</p> <p>14 Q. Did you do any further or make any further</p> <p>15 inquiry after you received the police report</p> <p>16 to make an independent assessment of whether</p> <p>17 or not Ms. Brackin should be terminated?</p> <p>18 A. Which -- Ms. Brackin's termination? No, I did</p> <p>19 not do any further investigation of the facts</p> <p>20 of any investigation. I didn't go behind them</p> <p>21 and investigate any more. No.</p> <p>22 Q. So if they recommended termination, you</p> <p>23 adopted their recommendation?</p>

86 (Pages 341 to 344)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 345

1 A. No.
 2 MS. NELSON: Object to the form. That was
 3 not the testimony.
 4 **Q. You didn't adopt their recommendation?**
 5 A. No. I mean, I would have -- I would have
 6 looked at their report, but I would not
 7 necessarily have adopted the recommendation
 8 that she be terminated.
 9 **Q. Well, do you know for a fact whatever contact**
 10 **Ms. Brackin had with Ms. Turner, whether or**
 11 **not that interfered with the police**
 12 **investigation?**
 13 A. Do I know for a fact?
 14 **Q. Uh-huh (positive response).**
 15 A. No. I don't know what she communicated to
 16 Ms. Turner.
 17 **Q. Did the police share with you the results of**
 18 **their complete investigation?**
 19 A. I'm sure they did.
 20 **Q. Okay. Were you aware -- by the way, before I**
 21 **ask you that question, let me back up.**
 22 **You have a directive here that says, there**
 23 **should be no contact with Ms. Turner. You**

Page 346

1 **have another directive that says, there should**
 2 **be no discussion with anyone regarding this**
 3 **matter. Is that correct?**
 4 MS. NELSON: Again, the documents can
 5 speak for themselves.
 6 MR. JAFFREE: But there's at --
 7 MS. NELSON: You only read parts of it.
 8 MR. JAFFREE: -- least two directives
 9 there of the staff.
 10 (Brief pause)
 11 A. That's what it says. Yes, sir.
 12 **Q. Were they both of equal weight or which one**
 13 **was greater weight?**
 14 MS. NELSON: This is so ridiculous.
 15 MR. JAFFREE: Excuse me.
 16 **Q. Even though it's ridiculous, if you could**
 17 **answer my question.**
 18 A. I didn't weigh them. I just simply, you know,
 19 communicated what was told to me and asked
 20 them to not do it.
 21 **Q. When you got the police report, did you learn**
 22 **that Eunice had communicated with a friend**
 23 **about the investigation of Ms. Turner?**

Page 347

1 A. I don't remember that specifically.
 2 **Q. Well, do you remember the police officer**
 3 **asking all of them had they communicated with**
 4 **someone about that investigation?**
 5 A. I wasn't present when they talked with them.
 6 **Q. But you got the report. You said that, you**
 7 **got their report.**
 8 A. Well, I got the report of the investigation of
 9 Mary Beth -- I mean, Mary's criminal charges.
 10 This is the investigation of -- I was aware
 11 there was a separate investigation by the
 12 police department of the leak.
 13 **Q. Well, now, I'm not necessarily limiting it to**
 14 **Mary's criminal investigation. They was**
 15 **investigating to determine who had contacted**
 16 **Rickey Stokes and caused that --**
 17 MS. NELSON: Are you testifying or is this
 18 a question?
 19 MR. JAFFREE: She asked me a question and
 20 I'm telling her.
 21 MS. NELSON: You're telling her -- you're
 22 supposed to be asking her questions
 23 and not telling her --

Page 348

1 MR. JAFFREE: Well, I'm telling her what
 2 investigation I'm talking about.
 3 A. Do you have it, a copy of it?
 4 **Q. A copy of what?**
 5 A. Of what you're talking about. You said
 6 they --
 7 **Q. There's a massive amount of documents. But do**
 8 **you know from your experience whether or not**
 9 **the police department was investigating who**
 10 **could have told Rickey Stokes that there was**
 11 **an internal investigation going on?**
 12 A. I remember there was an investigation by the
 13 police department of --
 14 **Q. And as part of that investigation --**
 15 MS. NELSON: Just let her answer.
 16 A. I remember there was an investigation of that
 17 by the police department. Yes.
 18 **Q. And as part of that investigation, they asked**
 19 **each of them, who have they communicated with?**
 20 MS. NELSON: Each of whom?
 21 **Q. Each of your magistrates --**
 22 MS. NELSON: If you know.
 23 **Q. -- who they communicated with.**

87 (Pages 345 to 348)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 349

1 A. I don't -- no. I mean, I remember vaguely
 2 that there was an investigation, but I don't
 3 -- I wasn't a part of it. I wasn't there when
 4 they talked with them or --
 5 **Q. And Eunice said that she had told a friend in**
 6 **addition to her daughter the details of the**
 7 **investigation as part of their report?**
 8 MS. NELSON: Object to the form. Do you
 9 know that?
 10 THE WITNESS: No.
 11 **Q. In fairness, other ones said that they told**
 12 **their husband or told their wife, but Eunice**
 13 **is the only one that told some friend of hers**
 14 **about the investigation.**
 15 MS. NELSON: Object to the form.
 16 **Q. It's in the record. Do you dispute that's in**
 17 **the record?**
 18 MS. NELSON: What record?
 19 MR. JAFFREE: It's in the police
 20 interrogation record.
 21 **Q. Do you want me to pull the Eunice one out to**
 22 **show you?**
 23 A. I just don't know that specifically, but you

Page 350

1 say other people told other -- I don't know.
 2 Did anybody else contact Mary Turner?
 3 **Q. Well, we're not talking about Mary Turner**
 4 **now. We'll talking about whether or not they**
 5 **told anyone about the investigation. Your**
 6 **directive says to talk to nobody about the**
 7 **investigation. And they talked to other**
 8 **people about this investigation. At least the**
 9 **rest of them kept it within the family.**
 10 **Eunice didn't keep it within the family?**
 11 MS. NELSON: Object to the form.
 12 **Q. She talked to other people.**
 13 MS. NELSON: Object to the form.
 14 **Q. Now, assuming that happened, would that have**
 15 **been insubordination?**
 16 A. Assuming that happened?
 17 MS. NELSON: Object to the form.
 18 **Q. Assuming that Eunice as she admitted in her**
 19 **statement under oath --**
 20 MS. NELSON: Object to the form.
 21 **Q. Assuming that Eunice had talked to --**
 22 A. I think all of them, not just Eunice. You
 23 said all of them admitted to talking to

Page 351

1 somebody.
 2 **Q. Well, would that have been insubordination?**
 3 A. That all of them talked with someone?
 4 **Q. Uh-huh (positive response).**
 5 A. I think it would have been in violation of the
 6 spirit of the order. Yeah.
 7 **Q. Yeah. And none of them was terminated, were**
 8 **they?**
 9 A. Not -- no, not terminated.
 10 **Q. None of them was warned that they had**
 11 **committed a violation of a directive, were**
 12 **they?**
 13 A. Not that -- I don't -- I didn't know that.
 14 **Q. Whatever police -- Sergeant Gray, the same one**
 15 **who sort of was used as a reference for**
 16 **Lavera, that same Sergeant Gray --**
 17 MS. NELSON: Object to the form. Object
 18 to your testimony. Objection to your
 19 interjection of opinion.
 20 MR. JAFFREE: Am I wrong about it?
 21 **Q. Have you looked at Lavera's application for**
 22 **employment and who she put down as her**
 23 **reference?**

Page 352

1 A. No, I haven't.
 2 **Q. Well, it's Sergeant Gray. You're familiar**
 3 **with Sergeant Gray --**
 4 MS. NELSON: I object to your continuing
 5 testifying.
 6 **Q. -- are you not?**
 7 A. He worked for the City of Dothan.
 8 **Q. You're quite familiar with him; is that not**
 9 **correct?**
 10 A. No. He works for the City of Dothan. We're
 11 not --
 12 **Q. The two of you are friends?**
 13 A. No, we're not friends.
 14 **Q. All right.**
 15 A. We don't socialize. We don't go to the same
 16 church. We don't know the same people.
 17 **Q. Sergeant Gray who did this internal**
 18 **investigation was aware that people had**
 19 **violated your directive, specifically Eunice?**
 20 A. Now, you said everybody.
 21 **Q. Yeah. But Eunice violated by bringing in a**
 22 **stranger.**
 23 MS. NELSON: Object to the form. Do you

88 (Pages 349 to 352)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 353

1 know what he's talking about?
 2 THE WITNESS: I -- just from what he's
 3 talking about, no.
 4 **Q. Do you dispute what I'm talking about?**
 5 A. I don't remember saying that.
 6 **Q. Do you dispute what I'm talking about?**
 7 A. I don't dispute that she -- I have no way to
 8 dispute that. I don't know. Do you have a
 9 copy of it that I can see?
 10 **Q. Yeah, I have a copy of it.**
 11 A. Okay. Can I -- did I sign it or --
 12 **Q. Did you sign it? No. We're talking about her**
 13 **testimony, who she admitted talking to.**
 14 MR. JAFFREE: I guess we can take a break
 15 and I'll find this for you.
 16 (Brief recess)
 17 (Plaintiffs' Exhibit 8 was marked
 18 for identification.)
 19 **Q. All right. I'll point to you what I've marked**
 20 **for identification purposes as Plaintiffs'**
 21 **Exhibit 8 in response to the question about**
 22 **Eunice. And Officer Keith Gray made this**
 23 **statement to Eunice. I'll give you his**

Page 354

1 statement and Eunice's response.
 2 "Okay. Um, since the judge gave everyone
 3 the directive not to talk about it to anyone,
 4 um, have you mentioned it, the investigation
 5 to anyone?"
 6 "I did mention it to a family member."
 7 That's Eunice speaking. I'm sorry. Yeah,
 8 Eunice speaking.
 9 Officer Gray: "Okay. Who is that
 10 member?"
 11 Eunice: "Ah, Melissa White."
 12 Officer Gray: "Who?"
 13 Eunice: "Melissa White."
 14 Officer Gray: "How is she related to
 15 you?"
 16 Eunice: "Just a friend."
 17 Officer Gray: "Okay. What contact, what
 18 did you say?"
 19 Eunice: "Ah, I said that, ah, there was
 20 an investigation going on, and it's about Mary
 21 Turner in our office because she had did
 22 something. We wasn't sure what was it yet."
 23 Officer Gray: "Does Ms. White know

Page 355

1 Ms. Turner?"
 2 Officer Gray (sic): "No."
 3 Officer Gray: "Okay. Did you" --
 4 MS. NELSON: Wait. You're
 5 mischaracterizing that. You said
 6 officer --
 7 MR. JAFFREE: This is Officer Gray: "Does
 8 Ms. White know Ms. Turner?"
 9 Eunice: "No."
 10 MS. NELSON: Okay. Eunice said no.
 11 MR. JAFFREE: I'm sorry.
 12 **Q. Officer Gray: "Okay. Did you say anything to**
 13 **anybody else?"**
 14 "I think I mentioned it to my daughter."
 15 Officer Gray: "How old is your daughter?"
 16 Eunice: "How old? 30."
 17 And then it goes on.
 18 Officer Gray: "What is your daughter's
 19 name."
 20 Eunice: "Claudette" --
 21 A. Can I not see it and read it myself? It's for
 22 me to --
 23 **Q. -- "Hawthorne."**

Page 356

1 A. Read the rest of it.
 2 **Q. Officer Gray: "And just what did you tell**
 3 **her?"**
 4 Eunice: "I just told her that we were
 5 having some problems in the office. I didn't
 6 mention any name."
 7 Officer Gray: "Okay. Anyone else?"
 8 Eunice: "That's it."
 9 Like I said, numerous employees discussed
 10 this with people that could have discussed
 11 this with people that could have led to Rickey
 12 Stokes having information about this
 13 investigation. And that was the purpose of
 14 this investigation, to find out how did Rickey
 15 Stokes find out. That was the sole purpose of
 16 this internal affairs investigation.
 17 MS. NELSON: Object to the form. Is that
 18 a statement or --
 19 MR. JAFFREE: Well, there's all kind of
 20 statements we can go through. I'm
 21 just saying that's the purpose. Every
 22 time they would give people their
 23 yearly rules, they would say it's an

89 (Pages 353 to 356)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 357

1 investigation on who told.
 2 MS. NELSON: Object to the form and
 3 statement.
 4 **Q. My question is, would you agree that purely**
 5 **based on your directive, the Exhibit 7 I**
 6 **believe, that Eunice committed**
 7 **insubordination?**
 8 A. Based on what you're showing me today that I
 9 don't remember seeing. But I -- I guess I
 10 made distinction -- I make the distinction
 11 between contacting Mary Turner, the defendant
 12 or the object of the investigation and
 13 discussing having problems at the office with
 14 a friend and a family member.
 15 **Q. Well, I thought it was a little bit more than**
 16 **a problem, it was saying that she was under**
 17 **investigation, the very thing that you didn't**
 18 **want people to know. But if you want to say**
 19 **that's a distinction, fine.**
 20 A. Well, I mean, that's the distinction I will
 21 make today. I didn't make it at that time
 22 because in the report -- where is the -- on
 23 the report of the Mary Turner and Mary Beth

Page 358

1 investigation, I don't think it mentioned
 2 that, that Eunice had talked -- said -- or
 3 numerous people.
 4 **Q. But the report submitted all of these**
 5 **documents. I mean, that was part of the**
 6 **report.**
 7 MS. NELSON: Well, you can ask her that,
 8 if the report submitted these
 9 documents.
 10 **Q. Well, are you soliciting that the report just**
 11 **had a narrative of the police and no**
 12 **documents?**
 13 A. Let me be honest with you. I don't remember
 14 seeing this. I thought there were like --
 15 MS. NELSON: This is being Plaintiffs'
 16 Exhibit 8?
 17 A. -- disks or something but not this.
 18 MS. NELSON: Have you not seen --
 19 A. If there was, I didn't look at it. I'm
 20 sorry. I just looked at the report. I didn't
 21 read the individual interviews or anything
 22 like that.
 23 **Q. So you just took the police officer's word and**

Page 359

1 **made a decision on the basis of what the**
 2 **police officer told you without reading any**
 3 **testimony itself?**
 4 A. Well, the results of their investigation
 5 revealed that -- whatever. Yes. I just
 6 looked at that. I didn't go back and look any
 7 further at the investigation.
 8 **Q. Would you agree that the results of that**
 9 **investigation would reveal insubordination?**
 10 MS. NELSON: Object to the form. Could
 11 you show her the report?
 12 A. And the other people's statements.
 13 **Q. Well --**
 14 A. That's kind of taken out of context.
 15 **Q. That's taken out of context?**
 16 A. I mean, where's the rest of it?
 17 **Q. Well, your counsel have the rest of it. I'm**
 18 **not going to go through all of that because I**
 19 **need to try to get out of here. But, fine,**
 20 **just say that there's a distinction. And**
 21 **that's fine. And you didn't look at -- or**
 22 **don't know if you looked at it or whatever.**
 23 **That's fine.**

Page 360

1 A. Mary -- Mary Beth was the only person that
 2 said she contacted Mary Turner, is my
 3 understanding.
 4 **Q. Well, that's not true either.**
 5 A. Somebody else said they contacted her?
 6 **Q. Do you remember Sarah Fowler saying that she**
 7 **took Mary Turner out to lunch for her**
 8 **birthday? Do you remember that being in the**
 9 **report?**
 10 A. After the directive?
 11 **Q. Yeah, after the directive.**
 12 A. I didn't look at that.
 13 **Q. Well, that's contacting Mary Turner. That's**
 14 **in the report as well. But let's forget about**
 15 **that right now. Let's talk about this traffic**
 16 **ticket right quick.**
 17 MS. NELSON: Talk about what?
 18 MR. JAFFREE: The traffic ticket.
 19 **Q. Ms. Turner was investigated for her alleged**
 20 **handling of a traffic ticket; is that correct?**
 21 A. Ms. Turner --
 22 **Q. Yeah, Ms. Turner.**
 23 A. -- was terminated when she was criminally

90 (Pages 357 to 360)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 361

1 indicted I think for -- for the traffic
2 ticket.
3 **Q. Do you know if Ms. Turner was ultimately**
4 **charged with mishandling a traffic ticket, a**
5 **misdemeanor?**
6 A. I don't know what she was ultimately charged
7 with.
8 **Q. So you don't know. At the time Ms. Turner was**
9 **investigated for that ticket, she had not been**
10 **charged with anything; is that correct?**
11 A. At the time she was investigated for it?
12 **Q. Yeah. The investigation that you mentioned in**
13 **Exhibit 7, Ms. Turner hadn't been charged with**
14 **anything?**
15 MS. NELSON: Number 7 being?
16 THE WITNESS: The memo about no contact.
17 MR. JAFFREE: The memo that you no
18 contact.
19 A. She hadn't been charged?
20 **Q. At that time, she hadn't been charged with**
21 **anything, formally charged.**
22 MS. NELSON: Criminally charged?
23 MR. JAFFREE: Criminally charged.

Page 362

1 **Q. They was just doing an investigation,**
2 A. That was the date of the investigation. So
3 no. That was the day the investigation
4 started.
5 **Q. Was Ms. Turner clothed with a presumption of**
6 **innocence during that investigation as far as**
7 **you know in your capacity as a judge?**
8 A. Was she clothed with a presumption of
9 innocence during the investigation?
10 **Q. Yeah.**
11 A. I -- I don't have any comment one way or the
12 other.
13 **Q. So you don't know whether or not when people**
14 **are being investigated, they are presumed**
15 **innocent; you don't know that?**
16 A. By whom?
17 **Q. If that's your testimony, that's fine.**
18 Well, is the term "innocent until proven
19 guilty" a two-penny catch phrase to you?
20 MS. NELSON: Object to the form. A
21 "two-penny catch phrase," I have no
22 idea what that means.
23 **Q. Do you know what that means?**

Page 363

1 A. Worth two pennies. I don't know, Mr. Jaffree.
2 **Q. It's just a little simple expression that**
3 **means nothing.**
4 A. I don't know.
5 **Q. Let me ask you this: In your opinion in your**
6 **capacity as a judge and you handle criminal**
7 **cases, would police officers of internal**
8 **affairs division have a right to tell a**
9 **criminal suspect not to contact a particular**
10 **person?**
11 MS. NELSON: If you know.
12 **Q. If you know.**
13 A. I don't know.
14 **Q. You don't know.**
15 **Do you know, in your opinion, if a police**
16 **officer of internal affairs would have a right**
17 **to tell a witness not to contact a criminal**
18 **suspect?**
19 A. Do I know if they have a right to do that?
20 **Q. Police officer of internal affairs would tell**
21 **a witness, don't contact this criminal**
22 **suspect?**
23 A. I don't know whether they have a right to do

Page 364

1 that or not.
2 **Q. Don't know. Do government employees lose**
3 **these rights, assuming they do have rights,**
4 **when they accept government employment?**
5 MS. NELSON: Object to the form.
6 **Q. If you know.**
7 MS. NELSON: Calls for a legal conclusion.
8 **Q. If you know.**
9 A. Whether government employees lose what right?
10 The right to --
11 **Q. The right to either contact somebody when**
12 **they're being investigated or to be contacted**
13 **when somebody else is being investigated?**
14 A. Do they lose that right? I don't know.
15 **Q. Did Ms. Brackin have the right to contact**
16 **somebody who was being investigated on**
17 **criminal charges or be contacted by that**
18 **person who is being investigated on criminal**
19 **charges, as far as you know?**
20 MS. NELSON: Object to the form.
21 A. A right?
22 MS. NELSON: Someone in her -- a co-worker
23 in her office?

91 (Pages 361 to 364)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 365

1 **Q. Yeah. Well, co-worker in her office.**
 2 **Co-worker in her office. It doesn't matter,**
 3 **unless you think it does matter.**
 4 MS. NELSON: Object to the form. If you
 5 know.
 6 **Q. Well, do you have an answer to that?**
 7 A. I don't know. I think that in -- in a
 8 criminal investigation, they might have the
 9 ability to say, don't do this while the
 10 investigation is pending.
 11 **Q. Fine, fine, fine. Okay.**
 12 **As a potential defendant, did Ms. Turner**
 13 **have a right to contact potential witnesses on**
 14 **her own behalf even if these witnesses were**
 15 **co-workers?**
 16 A. Did Ms. Turner have that right?
 17 **Q. Yeah. Does Ms. Turner have the right to**
 18 **contact a potential witness, even if they were**
 19 **co-workers, as far as you're concerned?**
 20 A. A constitutional right?
 21 **Q. Well, any kind of right?**
 22 A. I don't know.
 23 **Q. You don't know. All right. Well, if, in**

Page 366

1 **fact, they had a right, wouldn't you agree**
 2 **that your directive as reflected in**
 3 **Plaintiffs' Exhibit Number 7 frustrates this**
 4 **cherished constitutional right?**
 5 MS. NELSON: Object to the form. It calls
 6 for a legal conclusion.
 7 A. As the directive, I -- I don't -- I
 8 don't -- no, I don't think it frustrates it.
 9 **Q. Okay. Fine.**
 10 A. I think it was for a very limited period of
 11 time for a specific purpose.
 12 **Q. If an employee had been asked by Ms. Turner to**
 13 **assist them or to speak out in their behalf**
 14 **because she was being investigated for a**
 15 **criminal charge and you had your directive in**
 16 **place, would that employee have a choice of**
 17 **putting that job in jeopardy or denying**
 18 **assistance to Ms. Turner, that they do one or**
 19 **the other?**
 20 MS. NELSON: Object to the form.
 21 Speculative. Assumes facts not in
 22 evidence.
 23 **Q. Well, yes or no?**

Page 367

1 A. If they want to speak out on her behalf during
 2 the investigation?
 3 **Q. During your directive.**
 4 A. I think they could have talked to the
 5 investigators.
 6 **Q. Well, I'm asking you, could they have talked**
 7 **to Ms. Turner without subject -- subjecting**
 8 **their employment and their livelihood to the**
 9 **risk of loss based on your directive?**
 10 A. After hours they could have talked with her.
 11 **Q. After hours they could have talked with her.**
 12 **So you had an after-hour exception. Okay.**
 13 MS. NELSON: Well, she's already testified
 14 to that several times, that after
 15 hours they could contact her and she
 16 could then, in turn, check with the
 17 investigators to determine the
 18 parameters there.
 19 **Q. All right. Contact the investigators. Did**
 20 **you give them the names of the investigators?**
 21 A. I told them to contact me.
 22 **Q. Oh, contact you, not the investigators.**
 23 MS. NELSON: Yeah, she's testified to that

Page 368

1 about three times.
 2 **Q. Okay. Should any public employee have to make**
 3 **this choice or choose in between your**
 4 **directive and coming to the assistance of a**
 5 **person charged with a criminal offense?**
 6 MS. NELSON: Object to the form. Assumes
 7 facts not in evidence. She has not
 8 been charged yet. Calls for a legal
 9 conclusion.
 10 **Q. Well, should they?**
 11 A. Can you ask that again?
 12 **Q. Should any public employee have to make this**
 13 **choice of coming to the assistance of a friend**
 14 **being made the subject of investigation or**
 15 **running the risk of losing their job by doing**
 16 **so?**
 17 MS. NELSON: Same objection.
 18 **Q. Should a government employee have to face that**
 19 **kind of choice?**
 20 MS. NELSON: Same objection.
 21 A. Generally or specifically about this case?
 22 That wasn't the choice about losing their
 23 jobs. I just asked them not to contact --

92 (Pages 365 to 368)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 369

1 **Q. So they wouldn't have lost their job for**
 2 **contacting her?**
 3 A. Well, I'm not saying they wouldn't have. But
 4 I said, generally or specifically, in the
 5 world or specifically about Mary Turner?
 6 **Q. Did you --**
 7 A. You said should any -- said any employee. I
 8 don't know.
 9 **Q. But did you consider the sanction for**
 10 **violating your directive can be the loss of a**
 11 **job?**
 12 A. No. Insubordination is a major disciplinary
 13 infraction. The only reason Mary Beth was
 14 terminated was because she had had two. They
 15 might have gotten a disciplinary infraction,
 16 but not necessarily terminated if they didn't
 17 have a prior.
 18 **Q. So had she not had any prior, she wouldn't**
 19 **have been terminated?**
 20 A. I don't know that, but she did. So she was.
 21 **Q. Oh, so she may have still been terminated?**
 22 A. I don't know.
 23 **Q. Don't know.**

Page 370

1 A. I didn't -- I didn't --
 2 **Q. Okay. Well, did you consider these value**
 3 **choices that employees have to make when you**
 4 **issued your directive?**
 5 MS. NELSON: Object to the form of the
 6 question.
 7 **Q. Do you understand the question?**
 8 A. She said she contacted her solely about work.
 9 MS. NELSON: And the judge has dismissed
 10 this claim.
 11 A. So I don't think it was a value choice. She
 12 didn't -- she said, she didn't say anything
 13 about contacting her personally. She said it
 14 was solely about where -- about work.
 15 MR. JAFFREE: I think it was the other
 16 claim that got dismissed.
 17 MS. NELSON: No. Well, you maybe need to
 18 read the order.
 19 MR. JAFFREE: What order?
 20 MS. NELSON: The judge's order.
 21 MR. JAFFREE: Which claim that got
 22 dismissed that you're claiming?
 23 MS. NELSON: Mary Brackin's claim

Page 371

1 regarding her contact with Mary
 2 Turner.
 3 MR. JAFFREE: Well, I'm not sure the
 4 association claim has been dismissed.
 5 I don't think so at all.
 6 **Q. Anyway, now that you've had time to think**
 7 **about it, do you think that an employee should**
 8 **be required to make those choices?**
 9 MS. NELSON: When has she had time to
 10 think about it?
 11 MR. JAFFREE: The last few years.
 12 MS. NELSON: What choices? Whether to
 13 comply with the work-related directive
 14 while a criminal investigation is
 15 ongoing?
 16 **Q. Do you understand the question?**
 17 A. No.
 18 **Q. I'll pass it.**
 19 **Do you know who was assigned to conduct an**
 20 **investigation of Ms. Turner?**
 21 A. Not specifically.
 22 **Q. Did you play any role in the initiation of**
 23 **this investigation?**

Page 372

1 A. Other than calling them and telling them, no.
 2 **Q. Do you remember who said what to you in**
 3 **respect to no one having any contact with**
 4 **Ms. Turner? Remember the names of who told**
 5 **you anything?**
 6 A. One of the investigators said we needed to
 7 tell them not to contact her, not to go into
 8 her office, or touch her computer.
 9 **Q. Could you consult with your attorney and find**
 10 **out who told you that?**
 11 THE WITNESS: Do you know who told me
 12 that?
 13 MS. NELSON: I think the witness needs to
 14 testify from her own recollection.
 15 **Q. So you don't know who told you?**
 16 A. I just don't remember which investigator. One
 17 of the assigned investigators told me.
 18 **Q. To your knowledge, did any of your staff have**
 19 **any contact with Ms. Turner in a way that**
 20 **interfered with the investigation?**
 21 A. To my knowledge -- direct knowledge, I don't
 22 have any knowledge of any of my staff
 23 contacting Mary Turner, other than Mary Beth

93 (Pages 369 to 372)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 373</p> <p>1 Brackin.</p> <p>2 Q. And do you know that in view of the</p> <p>3 investigation?</p> <p>4 A. I don't know.</p> <p>5 Q. Don't know.</p> <p>6 Would a salutary hello in passing</p> <p>7 Ms. Turner in the street been in violation of</p> <p>8 your directive?</p> <p>9 MS. NELSON: I'm sorry. I didn't</p> <p>10 understand your question.</p> <p>11 THE WITNESS: A salutary --</p> <p>12 Q. Salutary hello when passing Ms. Turner on the</p> <p>13 street been violative of your directive?</p> <p>14 MS. NELSON: Object to the form.</p> <p>15 A. Can I say or did I say, you can't speak to her</p> <p>16 or -- may I see Exhibit 7.</p> <p>17 Q. No contact.</p> <p>18 I don't have it. It's up there somewhere.</p> <p>19 A. No, I don't think that would have of the</p> <p>20 directive.</p> <p>21 Q. So that wouldn't have violated it. Okay.</p> <p>22 That's good.</p> <p>23 Did the staff know that such limited</p>	<p style="text-align: right;">Page 375</p> <p>1 investigators.</p> <p>2 Q. But it became your directive when you enforced</p> <p>3 it, didn't it?</p> <p>4 MS. NELSON: Object to form.</p> <p>5 A. I communicated it to them.</p> <p>6 Q. But it became yours when you enforced it,</p> <p>7 correct?</p> <p>8 A. I didn't -- I'm not saying I adopted or</p> <p>9 initiated it. I communicated it.</p> <p>10 Q. Somebody lost their livelihood as a result of</p> <p>11 you enforcing that directive; is that correct?</p> <p>12 A. Somebody lost their livelihood as a result of</p> <p>13 violating that directive, a choice they made.</p> <p>14 Q. Okay. A choice. All right.</p> <p>15 What about non-verbal communications such</p> <p>16 as a hand wave or a handshake; would that have</p> <p>17 been in violation--</p> <p>18 MS. NELSON: Object to the form.</p> <p>19 Q. -- of your directive?</p> <p>20 A. I don't know how I would have known about it.</p> <p>21 Q. Well, if you had known about it, would that</p> <p>22 have violated your directive?</p> <p>23 MS. NELSON: Object to the form,</p>
<p style="text-align: right;">Page 374</p> <p>1 contact was acceptable?</p> <p>2 MS. NELSON: Object to the form.</p> <p>3 A. I don't know what they knew.</p> <p>4 Q. Would participating with Ms. Turner in a Bible</p> <p>5 study class during the prescriptive time have</p> <p>6 been a violation of your no-contact directive?</p> <p>7 A. No, because it was after hours.</p> <p>8 Q. After hours was okay.</p> <p>9 What about sending Ms. Turner an e-mail?</p> <p>10 Dependent upon the e-mail?</p> <p>11 A. I don't know.</p> <p>12 Q. You don't know?</p> <p>13 A. If they had sent her an e-mail --</p> <p>14 Q. Sent her an e-mail, would that have been</p> <p>15 sufficient contact to violate your directive?</p> <p>16 MS. NELSON: Again, object to the form.</p> <p>17 A. Right, and my directive. It was a directive</p> <p>18 of the investigators that they not -- I think</p> <p>19 that needs to be clarified on the Record. It</p> <p>20 was not my directive.</p> <p>21 MS. NELSON: You've clarified. He keeps</p> <p>22 --</p> <p>23 A. I communicated it to them through the</p>	<p style="text-align: right;">Page 376</p> <p>1 hypothetical. Speculative.</p> <p>2 A. I don't know.</p> <p>3 Q. You don't know if that would've violated your</p> <p>4 directive? Don't know? Okay.</p> <p>5 Sarah admitted that she spoke to Mary</p> <p>6 Brackin about the investigation. Was that a</p> <p>7 violation of your no-contact -- I'm sorry --</p> <p>8 no-communication directive?</p> <p>9 MS. NELSON: Object to the form. Assumes</p> <p>10 facts not in evidence.</p> <p>11 Q. Would it?</p> <p>12 MS. NELSON: Object to the form.</p> <p>13 A. I think when I asked her not to talk with</p> <p>14 anybody about it, I was trying to be</p> <p>15 protective of Mary. And I kind of meant,</p> <p>16 gossiping with other people outside the</p> <p>17 office. But I tried to convey that as best I</p> <p>18 could that -- and I told them that I was being</p> <p>19 protective of Mary. There was a lot of</p> <p>20 allegations and rumors; let's not talk about</p> <p>21 it. And I meant, add fuel to the fire. You</p> <p>22 know, I really was trying to be protective of</p> <p>23 her because there were merely allegations and</p>

94 (Pages 373 to 376)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 377

1 no substantiated evidence of any wrongdoing by
 2 her.
 3 **Q. Melanie Wise spoke to her husband. Was that a**
 4 **violation of your directive?**
 5 MS. NELSON: Object to the form.
 6 A. I -- no. I think it's reasonable that they
 7 would tell their spouses that something was
 8 going on at work.
 9 **Q. And so they should have just realized that**
 10 **that was reasonable?**
 11 MS. NELSON: Object to form.
 12 A. I think it's expected that they'll talk to
 13 their husbands. If they're -- if they're
 14 down, their husband say, what's going on. Oh,
 15 we got an investigation at work. I don't
 16 think that violates the spirit of the order.
 17 No, I don't.
 18 **Q. And Ann spoke to her husband, so that didn't**
 19 **violate it either?**
 20 MS. NELSON: Object to the form.
 21 A. Do we know what she told her husband, or if
 22 she said, we're having problems at work or
 23 there's an investigation at work or one of my

Page 378

1 co-workers is in trouble? We don't know what
 2 she told them. And I think it's expected that
 3 they would talk to something -- to their
 4 spouses.
 5 **Q. Let me just check these off. Melissa Woods**
 6 **talked to her husband; that's okay as well,**
 7 **right?**
 8 MS. NELSON: Object to the form.
 9 A. I'm not saying it's okay, but we don't -- do
 10 we know what they told her? She talked to
 11 them --
 12 **Q. About the investigation.**
 13 MS. NELSON: Object to the form. Do you
 14 know if she talked to her husband?
 15 THE WITNESS: No. No, I don't know that
 16 she talked to her husband.
 17 **Q. Now, let me discuss this case with Melissa.**
 18 **You have a problem with that -- discussed the**
 19 **investigation?**
 20 MS. NELSON: Who's Melanie and who's
 21 Melissa?
 22 **Q. Do you know Melanie?**
 23 A. Do I know Melanie?

Page 379

1 **Q. And Melissa Woods?**
 2 A. Or Melissa Woods?
 3 **Q. Well, Melanie discussed it with Melissa. Was**
 4 **that okay?**
 5 A. I don't know that she did.
 6 **Q. Okay. But it's all in the police report?**
 7 A. I don't know. It might be in that stuff that
 8 you have.
 9 **Q. Well, either I'm making this up, or it's on**
 10 **the police report.**
 11 **Michelle Bryan discussed this with her**
 12 **husband. The same response?**
 13 MS. NELSON: Object to the form.
 14 A. I don't know that she did.
 15 **Q. Well, if she did, same response, it's okay to**
 16 **discuss with your husband?**
 17 A. I didn't say it was okay. I said it's
 18 expected that if something unusual --
 19 **Q. Expected.**
 20 A. -- is going on at the office for them to tell
 21 their spouses. Now, whether they went into
 22 specific allegations, we don't know.
 23 **Q. Well --**

Page 380

1 A. If they --
 2 **Q. I'm sorry. Go ahead.**
 3 A. Well, you said discuss this. So if said, our
 4 office is in an uproar, then that's expected.
 5 We don't know what they said. So it depends
 6 on what they communicated, if it was about the
 7 investigation. We don't know. I had to work
 8 over because I had to do somebody else's
 9 duties because she's out on investigation. We
 10 don't know, Mr. Jaffree, so it would depend on
 11 what I knew about the facts of that particular
 12 incident.
 13 **Q. Do you have any idea why Officer Gray, who was**
 14 **conducting the investigation to see who may**
 15 **have leaked this information to Rickey Stokes,**
 16 **would not have questioned these people**
 17 **thoroughly as to who they had talked to and**
 18 **perhaps even talked to the people that they**
 19 **talked to, to see if he could get to the**
 20 **bottom of it of it?**
 21 MS. NELSON: Object to form.
 22 A. No, I don't have any idea what he asked or --
 23 **Q. Okay. What exception does Eunice discussing**

95 (Pages 377 to 380)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 381

1 with Melissa White -- by the way, are you
 2 familiar with Melissa White?
 3 A. No.
 4 Q. So you don't know who she is?
 5 A. No.
 6 Q. What exception does Eunice discussing this
 7 with her friend Melissa White does that fit
 8 in?
 9 A. I don't - I don't make an exception.
 10 MS. NELSON: Object to the form.
 11 Q. No exception.
 12 A. I don't know what she told her friend.
 13 Q. Well, I read to you what she told her friend.
 14 A. I don't know what all she told her friend, and
 15 I didn't know about it. I didn't make an
 16 exception.
 17 Q. Now, as you may know, Section 10 of the Dothan
 18 Civil Rights Act requires that a civil service
 19 rating list for rating job applicants be
 20 maintained.
 21 Do you know pursuant to that list what
 22 place Lavera or Eunice -- what place they
 23 occupied on that list, if you know?

Page 382

1 A. No, I don't.
 2 Q. Did you report to the personnel director in
 3 writing any deficiencies in Nancy's job
 4 performance during her working test period as
 5 required by Section 18 of the Dothan Civil
 6 Service Act?
 7 A. Yes, I did.
 8 Q. How many times did you report to them?
 9 A. I'm not sure. I spoke with Nancy in the
 10 presence of Kai Davis. I went over each
 11 perceived deficiency in her performance, each
 12 allegation that was made against her. We
 13 discussed in depth the problems, that I was
 14 not pleased with the way the office was going,
 15 that I felt the office was deteriorating under
 16 her supervision, that there was a lot of
 17 ying-yang and talking.
 18 And she was very well aware that we --
 19 that I was not happy with the way things were
 20 going after our first counseling session in my
 21 office and then my second one in Kai Davis's
 22 office.
 23 Q. Can I --

Page 383

1 A. And we did talk about those.
 2 Q. Can I interrupt you for a second?
 3 I guess the question was in writing, not
 4 verbally. Did you communicate to the
 5 personnel director in writing, as required by
 6 Section 18, Nancy's deficiencies?
 7 A. I remember doing a memo to Kai after our
 8 second counseling session.
 9 Q. Memo to Kai?
 10 A. Kai, Jerry Corbin, the acting city manager.
 11 Q. So if Nancy testified she didn't have any
 12 verbal counseling sessions, she'd be lying
 13 again, right?
 14 A. Yes. We discussed the problems that we were
 15 having that were exacerbated under her
 16 supervision.
 17 Q. Did you reduce these counseling sessions to
 18 memos that you gave to Nancy?
 19 A. I did -- no. I did not give them the second
 20 time. I wrote a memo because I was advised
 21 that I should write a memo, keeping track with
 22 what I told her, in which Kai Davis was
 23 present for the second, was not for the first.

Page 384

1 Q. You said you did not give Nancy a memo; is
 2 that correct? That you didn't give her a memo
 3 explaining to her --
 4 A. No. I talked with her.
 5 Q. -- the fruits of your discussion?
 6 A. No. We talked in depth about everything that
 7 I perceived that was wrong with the office and
 8 that would've been in my chambers. Okay.
 9 June 8th. Counseled her regarding several
 10 areas of concern.
 11 Q. If I could get you just to focus on my
 12 question, have you seen this document here,
 13 Attachment 1?
 14 A. I'm sure I have.
 15 (Brief pause)
 16 Q. Is it necessary for you to read that entire
 17 document in order for you to know whether
 18 you've seen it?
 19 A. If you're going to ask me about it, I'd like
 20 to read it.
 21 Q. Well, I'm going to ask you questions that
 22 you're not going to need to read it for me to
 23 ask you initially.

96 (Pages 381 to 384)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 385</p> <p>1 MS. NELSON: Well, again, I think she has</p> <p>2 the right to read it. This is about</p> <p>3 events that happened over three years</p> <p>4 ago.</p> <p>5 Q. Your counsel haven't shown you these documents</p> <p>6 recently?</p> <p>7 MS. NELSON: I would object to her</p> <p>8 testifying to anything as to what</p> <p>9 she's communicated or done with her</p> <p>10 counsel.</p> <p>11 MR. JAFFREE: Well, if counsel showed her</p> <p>12 a document, that's not communicating</p> <p>13 with counsel.</p> <p>14 MS. NELSON: That is a communication.</p> <p>15 MR. JAFFREE: Counsel, if you say so.</p> <p>16 (Brief pause)</p> <p>17 MR. JAFFREE: Well, if she's going to read</p> <p>18 the whole document, maybe I should</p> <p>19 just let her read all three of them.</p> <p>20 A. I read Attachment 1. And go ahead and read</p> <p>21 the other two?</p> <p>22 Q. Well, not yet. When was Attachment 1 drafted?</p> <p>23 MS. NELSON: Is that a question?</p>	<p style="text-align: right;">Page 387</p> <p>1 terminated.</p> <p>2 A. Right. "It is with the utmost disappointment</p> <p>3 I must decline to recommend Ms. Martin for</p> <p>4 continued employment with the City of</p> <p>5 Dothan."</p> <p>6 Q. So that's Attachment 1, so I guess that would</p> <p>7 come first over Attachment 2, maybe not. But</p> <p>8 do you have any idea whether or not you</p> <p>9 drafted that along with your evaluation or did</p> <p>10 you draft that before?</p> <p>11 A. Where is that -- it implied that it was</p> <p>12 contemporaneous because "It is with utmost</p> <p>13 disappointment that I must decline to</p> <p>14 recommend her for continued employment with</p> <p>15 the City of Dothan." So it implies it was</p> <p>16 contemporaneous with my decision to not</p> <p>17 recommend her for continued employment.</p> <p>18 Q. Okay.</p> <p>19 A. "I had fervently hoped that Ms. Martin would</p> <p>20 be able to correct the shortcomings in her</p> <p>21 supervisor style and rise to the difficult</p> <p>22 task before her. However, it has become</p> <p>23 painfully obvious that she cannot, and the</p>
<p style="text-align: right;">Page 386</p> <p>1 Q. When was Attachment 1 drafted?</p> <p>2 MS. NELSON: Well, you didn't give her the</p> <p>3 complete copy. It belongs to -- it</p> <p>4 was an attachment to another document</p> <p>5 that it was attached to.</p> <p>6 I mean, if you know --</p> <p>7 A. It's not dated. I don't remember what date.</p> <p>8 Q. What document was that attached to?</p> <p>9 MS. NELSON: Well, obviously, you</p> <p>10 separated it from what it was attached</p> <p>11 to.</p> <p>12 MR. JAFFREE: I saw the EEOC charge that</p> <p>13 it was attached to -- I mean, EEOC</p> <p>14 response. It was part of the EEO</p> <p>15 package.</p> <p>16 Q. If you know, do you have any idea of -- first,</p> <p>17 when was the documented drafted, do you know?</p> <p>18 MS. NELSON: If you know.</p> <p>19 A. I don't know because it's not dated. I'd be</p> <p>20 lying if I tried to tell him a date. But I</p> <p>21 think it was attached to her last evaluation</p> <p>22 or --</p> <p>23 Q. Well, last evaluation was when she was</p>	<p style="text-align: right;">Page 388</p> <p>1 reasons for this decision are as follows."</p> <p>2 So it implies that it was either attached</p> <p>3 to her termination or some other -- it's</p> <p>4 Attachment 1.</p> <p>5 Q. Do you know who you gave that to?</p> <p>6 A. No. I think it was attached to her</p> <p>7 termination -- her evaluation paperwork.</p> <p>8 Q. All right. Let me show what is identified as</p> <p>9 Attachment 2.</p> <p>10 A. Okay. What about that? Do you want me to</p> <p>11 read it?</p> <p>12 Q. When was Attachment 2 drafted?</p> <p>13 A. Looks like July -- yeah. That was the memo of</p> <p>14 July 8th.</p> <p>15 Q. If it was drafted, was it drafted on July 8th?</p> <p>16 A. It says "as of this date, July 8th, my concern</p> <p>17 is on the state of affairs at the" -- looks</p> <p>18 like it was. I don't know.</p> <p>19 "On or about June 8th, I met with her in</p> <p>20 my chambers. I was sadly disappointed.</p> <p>21 Further additional problems have become</p> <p>22 apparent."</p> <p>23 Q. What are you reading? Are you reading</p>

97 (Pages 385 to 388)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 389

1 **Attachment 2?**
 2 A. Yes, sir.
 3 **Q. So you're saying this was done on what day, on**
 4 **July the 8th?**
 5 A. I don't know.
 6 **Q. Although it mentions July the 8th, doesn't it?**
 7 MS. NELSON: Well, we've already provided
 8 you with a memo that she did on July
 9 8th about Ms. Martin's deficiencies.
 10 MR. JAFFREE: What -- you're talking about
 11 the memo to -- which memo are you
 12 referring to?
 13 MS. NELSON: To Kai Davis. So it just
 14 seems -- I mean, I'm not going to
 15 testify. I know it's getting late in
 16 the day. I'm trying to move things
 17 along. It just seems to be a recap of
 18 all the deficiencies that she had
 19 incurred over her employment.
 20 **Q. Well, let me ask you this: Did you give**
 21 **Attachment 1 in any written form to Ms. Martin**
 22 **at any time?**
 23 A. If it was a part of her evaluation, she had to

Page 390

1 sign, is what I assume.
 2 **Q. Well, she says that the attachment wasn't part**
 3 **of her evaluation, just wasn't.**
 4 A. I don't know. I would have -- this -- I think
 5 that's what it was attached to.
 6 **Q. Now, what about Attachment 2; did you give**
 7 **Attachment 2 to -- to Ms. Martin?**
 8 A. I think it -- I don't know. It would have
 9 been attached to her evaluation -- her final
 10 evaluation.
 11 **Q. But Attachment 2 was done before her final**
 12 **evaluation. You said that it was dated July**
 13 **the 8th. So on or about July 8th, did you**
 14 **give Ms. Martin a copy of this Attachment 2?**
 15 MS. NELSON: Object to the form.
 16 A. Right. No. It was a memo to Kai Davis.
 17 **Q. Was the memo to Kai Davis sort of identical to**
 18 **this Attachment 2?**
 19 A. I think so. I don't know. I haven't read
 20 it. I haven't compared the two.
 21 **Q. Well, can you tell me, when did you do the**
 22 **memo to Kai Davis?**
 23 A. I did one to Ms. Kai Davis June 8th, and then

Page 391

1 I did one a month later, July 8th, it looks
 2 like.
 3 **Q. Well, did you draft a letter to Kai Davis and**
 4 **this attachment on the same day?**
 5 A. I don't know if this was attached to -- I
 6 think I just made this Attachment 2, thinking
 7 that this was the memo of July 8th. I think
 8 this is -- "Ms. Martin took it upon herself to
 9 inform the employee."
 10 And I think it's probably the same thing,
 11 just a recap of what was in the -- all this
 12 was attached to her final evaluation, just
 13 recapping the memo of June 8th and July 8th of
 14 2004. These are my attachments to her final
 15 evaluation.
 16 **Q. Do you know why the font is different on your**
 17 **attachment versus a memo to --**
 18 A. Why the what is different?
 19 **Q. The font.**
 20 A. Because I probably just printed this one off
 21 the computer, is what I'm thinking, when I was
 22 doing it. I had already sent her that memo,
 23 and I'm assuming that when I did this, I just

Page 392

1 printed it off the computer. It doesn't look
 2 like the font is different to me. Oh, yeah.
 3 I think -- well, I think I just printed this
 4 off the computer when I was doing her final
 5 evaluation.
 6 I had already sent these memos to Kai,
 7 saying that I did counsel her, showing that I
 8 had counseled. And then when I got ready to
 9 terminate her, I just made an attachment.
 10 **Q. Well, let's talk about this June the 8th memo**
 11 **to Kai -- that you said you did to Kai. You**
 12 **didn't send this June 8th memo to Ms. Brackin,**
 13 **did you?**
 14 A. No.
 15 MS. NELSON: You're talking about June
 16 8th, the June 8th memo.
 17 MR. JAFFREE: Yeah, June 8th.
 18 **Q. Now, you say in that June the 8th, on or**
 19 **about --**
 20 A. Why would I have sent it to Ms. Brackin?
 21 **Q. I'm sorry. Ms. Martin. I'm sorry. I'm**
 22 **getting my clients mixed up.**
 23 **You didn't send this to Ms. Martin, did**

98 (Pages 389 to 392)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 393

1 **you, this memo dated June the 8th?**
 2 A. It says, to Kai Davis.
 3 MS. NELSON: Can we get these marked so we
 4 at least know what we're talking about
 5 here?
 6 MR. JAFFREE: Okay. Sure we can do that.
 7 MS. NELSON: I mean, I'll mark them if you
 8 want me to.
 9 MR. JAFFREE: Yeah.
 10 MS. NELSON: Okay. I'm going to mark the
 11 June 8th memo as Plaintiffs' Exhibit
 12 10.
 13 (Plaintiffs' Exhibit 10 was marked
 14 for identification.)
 15 A. That's June 8th memo to Kai Davis.
 16 **Q. If you look at the June the 8th memo, you say,**
 17 **"On or about the 8th of June, I called Nancy**
 18 **Martin."**
 19 **Were you not certain what date you called**
 20 **Nancy?**
 21 A. I just always say "on or about." I mean,
 22 that's just kind of something I do.
 23 **Q. I mean, but if the memo is dated the 8th and**

Page 394

1 **you talked to Nancy on the 8th, why would you**
 2 **say on or about June the 8th?**
 3 A. I just said that.
 4 **Q. Why not, "Today I talked to Nancy Martin?"**
 5 **(Brief pause)**
 6 **Q. Now, if you look at that exhibit, you indicate**
 7 **a complaint from Ms. Ott. Was that complaint**
 8 **in writing?**
 9 A. No. I said, "As you are aware from your
 10 conversations with Ms. Ott." I knew that
 11 Ms. Ott had been over to Personnel to complain
 12 about Ms. Martin's "sad inability to interact
 13 professionally with personnel from that office
 14 as well the" -- I knew that Ms. Ott had been
 15 over to the -- to talk with her. There
 16 was -- not saying there was a complaint.
 17 **Q. So there wasn't a complaint?**
 18 A. Well, I mean -- no, I didn't say there was one
 19 in here. I said, "As you are aware from your
 20 conversations with Ms. Ott, Ms. Martin
 21 exhibits a sad inability to interact
 22 professionally with personnel from that office
 23 as well as defense attorneys which has carried

Page 395

1 over to the attitudes of personnel under
 2 Ms. Martin's supervision."
 3 **Q. Let's me stop you. What did Ms. Ott say to**
 4 **Kai Davis?**
 5 A. I -- I -- it would be hearsay whatever she
 6 said to her, but I knew that she had talked
 7 with her about problems she was having with
 8 Nancy.
 9 **Q. All right. I want you to define with**
 10 **specificity the problems.**
 11 A. That I observed?
 12 **Q. The problems that Ms. Ott was having with**
 13 **Nancy and the dates that these problems**
 14 **occurred.**
 15 A. Well, I don't know all the problems that they
 16 had personally with each other. That I
 17 observed was several problems, that Nancy was
 18 just very --
 19 **Q. Give me the date that you first observed the**
 20 **problem between Nancy and Ott.**
 21 A. I don't know the date specifically.
 22 **Q. Tell me the nature of the problem that you**
 23 **first observed.**

Page 396

1 A. I don't know that it was the first, but I
 2 witnessed Nancy coming over there and
 3 screaming about the magistrates being
 4 attacked, about an incident that never
 5 happened.
 6 **Q. And so you're talking about -- is that a**
 7 **single incident that you remember now?**
 8 A. You asked me -- I don't know -- I don't know
 9 the first. I can't put them in sequence, but
 10 there were several.
 11 **Q. Well, tell me, other than the screaming**
 12 **incident about magistrates being**
 13 **attacked -- and when did that happen?**
 14 A. I don't know the date.
 15 **Q. Can we assume that it was before June the 8th?**
 16 A. I don't know if it had happened yet. I don't
 17 know.
 18 **Q. All right. So if we're not talking about that**
 19 **incident because it may not have happened,**
 20 **what incident are we talking about --**
 21 A. Not because it may not have happened, because
 22 we don't remember the specific date it
 23 happened.

99 (Pages 393 to 396)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 397

1 **Q. All right. You understand what I want. I**
 2 **have to establish that stuff that you say is**
 3 **not true. In order to establish that, I need**
 4 **to know what happened.**
 5 MS. NELSON: Object to the form. To say
 6 that stuff she's saying is not true?
 7 MR. JAFFREE: I have to establish that as
 8 a matter of law.
 9 MS. NELSON: Why do you have to establish
 10 that? Your goal is to get the facts.
 11 MR. JAFFREE: No, no. I have to establish
 12 that as a matter of law.
 13 **Q. I have to establish that you --**
 14 MS. NELSON: Well, I resent that comment.
 15 You have no basis --
 16 MR. JAFFREE: You can resent it.
 17 MS. NELSON: -- that this witness is not
 18 telling the truth.
 19 MR. JAFFREE: I'm only telling you what
 20 the law requires me to establish.
 21 MS. NELSON: The law established -- caused
 22 you to establish --
 23 MR. JAFFREE: A pretext. But I don't want

Page 398

1 to argue with you. I'm trying to get
 2 some --
 3 **Q. Tell me, other than this unspecified date that**
 4 **Ms. Martin was complaining about how Ms. Ott**
 5 **was treating magistrates, what other specifics**
 6 **you have observed?**
 7 A. Between Ms. Ott and --
 8 **Q. Ms. Martin.**
 9 A. -- Ms. Martin. Just inability to get along.
 10 You know, Ashton would call for cases. Nancy
 11 wouldn't let the magistrates bring them over.
 12 Ashton was the prosecutor. It was just a --
 13 **Q. You said --**
 14 MS. NELSON: Let her testify. You asked
 15 her. Let her testify.
 16 MR. JAFFREE: I don't want her to get out
 17 --
 18 MS. NELSON: You don't want to hear what
 19 she has to say.
 20 MR. JAFFREE: I want to ask her
 21 specifics.
 22 A. I didn't write the dates down. I was in
 23 court.

Page 399

1 **Q. Tell me the facts beyond --**
 2 MS. NELSON: She's trying to. You keep
 3 interrupting her and won't let her.
 4 **Q. I want to do these one at a time. Okay? The**
 5 **first I want to know is, when did Ms. Ott call**
 6 **for cases and Nancy wouldn't let cases come**
 7 **down? When did that happen?**
 8 A. The date?
 9 **Q. Yeah.**
 10 A. I don't know.
 11 **Q. What did you do when that happened?**
 12 A. I more than likely called and said, this is
 13 the prosecutor; if she wants a case, let's
 14 just bring it over and get it taken care of.
 15 **Q. What case was it that the prosecutor was**
 16 **asking for?**
 17 A. More than one.
 18 **Q. What month did this happen in?**
 19 A. February. I don't know.
 20 **Q. February.**
 21 A. I don't know, honestly.
 22 **Q. So you don't know. Was it prior to June -- I**
 23 **mean -- I'm sorry. Yeah, June. Prior to June**

Page 400

1 **8th?**
 2 A. It must have been, some of the problems. But
 3 I don't know specifically which.
 4 **Q. So --**
 5 A. I didn't stop during court to write down the
 6 fact that Ashton called for a case, she was
 7 the city attorney, and Nancy wouldn't let them
 8 send it. I did not do that. I do not know
 9 the dates. I just know that it was a
 10 continuous problem with Nancy and --
 11 **Q. Well, you see --**
 12 MS. NELSON: Please let her continue.
 13 A. -- and the prosecutor's office. It was.
 14 **Q. I don't know what "continuous" mean. I need**
 15 **some more definition.**
 16 A. Well, your client said yesterday there were
 17 numerous things she -- there were too many
 18 cases. She didn't know the names or dates or
 19 anything, and you accepted that.
 20 **Q. I'm not -- hold on.**
 21 A. So I'm saying the same thing, it was too
 22 numerous.
 23 **Q. Well, maybe your attorney accepted that.**

100 (Pages 397 to 400)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 401

1 A. No, you did, too.
2 **Q. I had no role in accepting or not accepting.**
3 A. Well --
4 **Q. I'm trying to --**
5 A. I don't know.
6 **Q. -- get some specificity.**
7 A. I don't know.
8 **Q. You tell me "numerous."**
9 A. Numerous.
10 **Q. As a --**
11 MS. NELSON: She said continuous and
12 numerous.
13 **Q. As a judge, if somebody appears before your**
14 **court and they testified there had been**
15 **numerous problems with this person -- let's**
16 **say it's a spouse abuse case. Numerous --**
17 A. I wouldn't make them tell me the dates.
18 **Q. Numerous problems and they couldn't be**
19 **specific about anything --**
20 A. Well, they can be --
21 **Q. -- would you accept that?**
22 A. -- specific about the incident if they just
23 said, I don't know the date, but I know he

Page 402

1 beat the hell out of me and I had a black eye
2 and had a broken arm, I would give that some
3 credibility.
4 **Q. I will give that some credibility. I'm trying**
5 **to find out, what did you do when Nancy told**
6 **somebody that they're not going to bring some**
7 **files down, what did you do?**
8 MS. NELSON: Asked and answered. She said
9 what she'd do.
10 MR. JAFFREE: What did she do.
11 A. Called the clerk's office and said, Ashton is
12 a prosecutor. Let's just get the cases
13 brought over and get them handled.
14 **Q. All right. This happened sometime but you**
15 **don't when, sometime --**
16 A. I don't know the specific date.
17 MS. NELSON: Asked and answered.
18 **Q. All right. Now, that's one incident. What's**
19 **another incident?**
20 A. Another incident is when she flew over into
21 the courtroom, saying that one of the
22 magistrates had called her and told her that
23 Ashton had threw a fit and disparaged the

Page 403

1 magistrates during court. And I told her,
2 that never happened. I was there. Now, if
3 she did it outside of court, no, but it did
4 not happen in court as they told her.
5 **Q. Do you know when that happened?**
6 A. And she -- she just threw a fit.
7 **Q. Do you know when that happened?**
8 A. No. Does she know?
9 **Q. Did you do a memo to Nancy about that?**
10 A. No.
11 **Q. Did you do a memo to Nancy about the first**
12 **one?**
13 A. No.
14 **Q. All right. Now let's go the third one.**
15 A. Only with Ms. Ott or with the other
16 attorneys?
17 **Q. Ms. Ott. Right now with Ms. Ott?**
18 A. Ms. Ott. Well, she was just very
19 unprofessional. She was mad with Ms. Ott I
20 guess because -- I don't know. I'm just
21 assuming. But it was just an inability to
22 work -- anything Ms. Ott called for, she just
23 resisted giving. And I tried to explain to

Page 404

1 her that these are the City's cases, if they
2 want to -- whatever they want to do with their
3 cases, you know, these are their cases to
4 prosecute or not.
5 **Q. Other than this first incident --**
6 A. The first three or four.
7 **Q. Other than this incident, when did Ms. Ott**
8 **call for something and Nancy didn't give it to**
9 **her?**
10 MS. NELSON: Object to the form.
11 A. Several times.
12 **Q. How many times?**
13 MS. NELSON: It's mischaracterizing her
14 testimony.
15 **Q. How many times?**
16 A. Numerous times.
17 MS. NELSON: Asked and answered.
18 **Q. How many times that you're aware of?**
19 MS. NELSON: Asked and answered.
20 A. I can't give you a number.
21 **Q. More than ten?**
22 A. I can't give you an answer.
23 **Q. More than 15?**

101 (Pages 401 to 404)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 405</p> <p>1 A. If I say ten, and it was nine, I'd be lying. 2 So I can't give you an answer. 3 Q. Well, what does numerous mean to you? 4 A. A lot. 5 Q. What does a lot mean to you? 6 A. Many. 7 Q. More than five? 8 A. More than once. 9 Q. More than once but less than five? 10 (Brief pause) 11 Q. Aren't you just making this up out of whole 12 cloth? 13 A. No. 14 Q. All right. Well, what did you do -- 15 A. Your clients are making all that up out of 16 whole cloth -- 17 Q. What did you do -- 18 A. -- trying to get a lawsuit. 19 Q. What did you do -- 20 MS. NELSON: Object. Asked and answered. 21 Q. What did you do when Nancy just numerous times 22 denied response to Ms. Ott's request for 23 information?</p>	<p style="text-align: right;">Page 407</p> <p>1 it deteriorated even more -- 2 Q. When did you first -- 3 A. -- because of her lack of knowledge and her 4 inflexibility and her reliance on people to 5 tell her what to do. 6 Q. When did -- 7 A. She couldn't look up things in the computer. 8 She didn't know what they were doing. She 9 argued with lawyers. She -- you know, it was 10 just a constant source of problems. She was a 11 probationary employee. And I couldn't allow 12 it to go on. 13 Q. I understand what you're saying. I understand 14 your position on this. 15 A. I know, but you want me to know dates and 16 write -- stop court. You've been in court 17 when there were 300 people -- stop court and 18 write Nancy a memo every time I had to call up 19 there and ask for a ticket. 20 Q. Did any of this -- 21 A. It's impractical. And I think a court would 22 understand that. 23 Q. Did any of this happen before you did Nancy's</p>
<p style="text-align: right;">Page 406</p> <p>1 A. I told her the same thing the attorney at 2 Legal Services told her, that she wasn't a 3 lawyer and she couldn't tell them how to try 4 their cases. 5 Q. Are you not the appointing authority? 6 A. I'm the department head. 7 Q. All right. The appointing authority. Didn't 8 we agree to that earlier? 9 MS. NELSON: She's a department head. Go 10 ahead, please. 11 Q. You want a court to believe -- another 12 court -- that you observed numerous occasions 13 Ms. Martin, who's not a lawyer, telling 14 another lawyer that's assistant prosecutor 15 that I'm not going to give you documents that 16 you want and you did nothing but just talk to 17 her on the phone? Numerous occasions? 18 A. Well, she wouldn't say, I'm not going to give 19 them to you. The magistrate -- she would say, 20 well, it's not on the docket or, you know, 21 just -- it wasn't set for today. She just 22 didn't help us. Nancy never facilitated the 23 process. You know, once she came, it just --</p>	<p style="text-align: right;">Page 408</p> <p>1 first evaluation? 2 A. I don't know. 3 Q. Could any of this -- could this attitude have 4 reflected itself when you did Nancy's first 5 evaluation? 6 A. I don't think so. 7 Q. So she changed? 8 A. I don't know. 9 Q. Well, either she changed or she didn't? 10 A. I don't remember. 11 Q. You don't remember whether she changed. Okay. 12 Now, do you remember any other incidents 13 involving Ms. Ott in addition to -- 14 A. Not specifically. 15 Q. Nothing specific? 16 A. Ms. Ott does, though. 17 Q. Ms. Ott does but you don't. Okay. Fine. All 18 right. 19 Now, let's talk about these other 20 attorneys. Were there numerous attorneys that 21 have complaints of Nancy? 22 A. Not numerous. One, two, three, four. 23 Everybody was complaining that she wouldn't</p>

102 (Pages 405 to 408)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 409

1 let them file stuff, and she wanted them to
 2 wait in line until their names were called and
 3 she wouldn't give them a ticket.
 4 **Q. All right. I don't want to just generalize.**
 5 **Let's talk about the name of the first**
 6 **attorney that complained.**
 7 A. I -- I can't put them in sequence. I didn't
 8 write down number one.
 9 **Q. Then name me any attorney that complained.**
 10 A. Any attorney that complained would be --
 11 MS. NELSON: Besides Ashton Ott?
 12 A. -- Ashton Ott.
 13 **Q. Well, we've covered her.**
 14 A. Write that down, though. She's one.
 15 **Q. I've got that down.**
 16 A. Ashton Ott, one. Derek Yarbrough.
 17 **Q. Stop with Derrick. Hold up. Stop.**
 18 **Yarbrough?**
 19 A. Yes.
 20 **Q. How do you spell that last name?**
 21 A. I don't know.
 22 **Q. Now, what did Derek Yarbrough complain about?**
 23 A. That he went over there to file a motion and

Page 410

1 that she wouldn't let him file it. And that
 2 he told her, she had -- she should let him
 3 file it and let me rule on it as to whether it
 4 was timely or not. And that -- they had just
 5 complained, all of them.
 6 **Q. Is this the one that she said she was**
 7 **following your policy, the one that she talked**
 8 **about yesterday?**
 9 A. I don't know.
 10 MS. NELSON: Object to the form.
 11 **Q. Okay. When did Derek Yarbrough complain to**
 12 **you?**
 13 A. I don't remember the date.
 14 **Q. Did he put this complaint in writing?**
 15 A. No. None of them wanted to put it in writing
 16 because they had to continue to work.
 17 **Q. All right.**
 18 MS. NELSON: Just let her answer, please.
 19 A. Yeah. I mean, it was difficult because they
 20 would all say, well, you know, they got to
 21 continue working with them, so they don't want
 22 to make a complaint.
 23 **Q. Give me the name of another one.**

Page 411

1 A. Tom Brantley.
 2 **Q. What did he complain about?**
 3 A. Let me give you another one. Kathleen Nemish.
 4 **Q. No, no, before you --**
 5 A. I don't remember. Kathleen Nemish.
 6 **Q. Hold on.**
 7 MS. NELSON: Well, let -- while she's
 8 thinking, let her give them to you.
 9 MR. JAFFREE: I don't want them that way.
 10 I want to know what Tom Brantley
 11 complained about.
 12 A. And I can't give them sequential.
 13 **Q. What did he complain about?**
 14 A. Just about her -- just about her office
 15 policies, just her inflexibility. I don't
 16 remember specifically.
 17 **Q. You don't remember specifically. Don't**
 18 **remember. Okay.**
 19 A. I -- don't say don't remember specifically,
 20 but about her office policies or --
 21 **Q. I don't know what that means. I don't know**
 22 **what office policy mean. I mean, that's not**
 23 **telling me anything useful.**

Page 412

1 **Brantley complaining about her office**
 2 **policies tell me nothing. You don't remember**
 3 **anything specific he complained about?**
 4 A. Specifically about Nancy's attitude and her
 5 office policies.
 6 **Q. What about her attitude?**
 7 A. That her attitude was one of inflexibility,
 8 that she didn't know what she was doing, and
 9 that the office was not operating as smoothly
 10 as it was before she came, that the lawyers
 11 were complaining, and that it just was
 12 deteriorating, that the attitudes of the
 13 magistrates was bad.
 14 **Q. Let me stop you. Did Thomas complain before**
 15 **her first evaluation?**
 16 A. I don't remember specifically.
 17 **Q. Did Dennis -- Derek Yarbrough complain**
 18 **before --**
 19 A. I don't remember the dates.
 20 **Q. What other attorney complained?**
 21 A. Kathleen Nemish.
 22 **Q. What did Kathleen complain about?**
 23 A. Just the same thing, that -- well, we had a

103 (Pages 409 to 412)

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 413	Page 415
<p>1 specific incident where Kathleen had a client 2 who had sent in a completion of CRO, and he 3 was from Michigan. And the paperwork had 4 gotten separated from the file, similarly 5 to what -- well, I won't bring that up now. 6 The paperwork had got separated from the file, 7 but they knew that -- she knew that she had 8 turned it in. 9 So I took the case into the courtroom or 10 into my chambers to avoid a warrant being 11 issued. He called in. She told him they 12 hadn't received it and that he would have to 13 drive back here for court or get a warrant. 14 And I had specifically told Mary Turner not to 15 issue the warrant for him because we were 16 looking for his paperwork. Nancy instructed 17 Mary Turner, go ahead and issue the warrant. 18 Kathleen was trying to work it out for him. 19 And he ended up sending her roses in 20 gratitude. But, no, I don't know his name. 21 Q. Did you -- 22 A. I did not write down the -- 23 Q. Let's me ask you this: Did you hear Nancy</p>	<p>1 from Kathleen Nemish on this incident? 2 A. No. 3 Q. Do you know if your attorney have a statement 4 from Kathleen -- 5 A. No. 6 Q. -- on this incident? 7 A. They just complained. 8 Q. Do you know if Thomas Brantley have a 9 statement -- 10 A. No. 11 Q. -- concerning this incident? 12 What about Doug (sic) Yarbrough? 13 A. No. 14 Q. You got a statement from Doug Yarbrough? 15 A. No. 16 Q. Do you anticipate getting a statement from 17 Derek? 18 A. I haven't thought about it. I didn't write 19 her up for that. I didn't discipline her for 20 that. 21 Q. What about Thomas Brantley? 22 A. I didn't discipline her for any of these 23 infractions because I could not remember the</p>
Page 414	Page 416
<p>1 tell Mary Turner not to -- to go ahead and 2 issue the warrant? 3 A. She -- I think she wrote it on there. 4 Q. She wrote it down where? 5 A. Yeah, we knew that she did that. 6 Q. No. I asked you did you -- 7 A. On the case action summary, we saw that. 8 Q. How did you know that? 9 A. We saw it. We saw it somewhere. We knew she 10 did it. 11 Q. You saw where she said, issue the warrant? 12 A. Well, she didn't even have the paperwork. I 13 put that on there because the paperwork was in 14 the courtroom, so she issued the warrant 15 without the paperwork. 16 Q. And when was this? 17 A. I don't know. 18 Q. Well, since you got the -- you got documents 19 to support that. You could -- 20 A. We didn't -- we can't remember his name. 21 Q. So you just -- 22 A. Again, 17,000 cases. 23 Q. Let me ask you this: Do you have a statement</p>	<p>1 names of them. 2 Q. And did you talk to her about -- 3 A. I recommended her termination for a totality 4 of circumstances. So if you want to strike 5 these out, we've got other incidents. 6 Q. I don't want to scratch these out. 7 Give me your names of other attorneys who 8 have complained. 9 A. I can't remember. I think Cliff Mendheim 10 complained one day about having to stand in 11 court and wait until -- she wanted them to 12 only file their responses in alphabetical 13 order. 14 Q. When did that happen? 15 A. All the lawyers were complaining during court. 16 Q. I'm not talking about all the lawyers. When 17 did Cliff complain? 18 A. I didn't write it down. 19 Q. Well, were you in court when she did this? 20 MS. NELSON: Did what? 21 A. Yeah. 22 Q. Have him stand -- 23 MS. NELSON: In alphabetical order?</p>

104 (Pages 413 to 416)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 417</p> <p>1 Q. -- for a long period of time in 2 alphabetical -- 3 A. Yeah, she wanted all of them to do that. 4 Q. All right. Did you tell her to stop and not 5 have them stand in alphabetical order when 6 Cliff was in there? 7 A. Well, she would say it's a policy that -- she 8 kept referring to the policy of filing it 9 seven days before or they had to come to 10 court. And what I told her that was 11 impractical to have them stand there and wait 12 until their next client was called; let's just 13 file them all at one time. And she felt that 14 I was overruling her policy. I wasn't. I 15 still said they had to be filed seven days or 16 come to court. I'm just saying, if you had a 17 Client Abernathy, you should not have to stand 18 there until your Client Zenith came up to file 19 both motions. Let's just get them -- you 20 know, we handle a lot of cases. 21 Q. But you could stop that? 22 A. And we're trying to get it facilitated. 23 Q. Did you do --</p>	<p style="text-align: right;">Page 419</p> <p>1 was not present. 2 MR. JAFFREE: Nancy would say, nobody 3 never told me. This didn't happen. 4 Didn't happen. And I didn't make 5 anybody stand in line. I didn't have 6 anybody come from Mississippi or 7 Michigan because I issued -- she said 8 that yesterday. 9 A. Nancy will say that she didn't talk about you 10 like a dog, but she did. I mean, she will say 11 that. 12 Q. Well, I'm assuming that that's not -- 13 A. She's just lying. 14 Q. -- at issue here, her talking about me. 15 A. I know. 16 Q. And that's not going to affect my 17 representation of Nancy. 18 A. It shouldn't. 19 Q. Well, I mean, it's not. So can you think of 20 any other attorneys -- 21 A. No. 22 Q. -- that complained? 23 A. Not off the top of my head, but I am sure</p>
<p style="text-align: right;">Page 418</p> <p>1 A. Well, she felt like it was a violation of 2 her -- I wasn't trying to fire Nancy. If I 3 had been trying to, I would have written 4 everything up, wrote everything down. I was 5 trying to work with her and teach her because 6 I knew she didn't know. 7 Q. Well, I mean -- 8 A. But Nancy didn't want to learn. She wanted to 9 enforce these crazy rules and, you know, 10 and -- 11 Q. Well, did you do a memo telling her that the 12 rules were crazy? 13 A. No. 14 Q. No memos. All right. So do you have a 15 statement from Cliff Mendheim? 16 A. No. I'll ask them if they remember. 17 Q. All right. So you don't have statements from 18 these people. You coming up -- you don't have 19 the dates. You didn't do memos, but we should 20 just believe you. Nancy said, believe me. I 21 mean -- 22 MS. NELSON: Nancy would have no way to 23 know if these people complained if she</p>	<p style="text-align: right;">Page 420</p> <p>1 there are others. 2 Q. Now, in addition to attorneys -- 3 THE WITNESS: Can we reserve the right to 4 supplement? 5 MS. NELSON: Sure. 6 Q. What other complaints did you have about 7 Nancy? 8 A. Anytime I tried to talk to Nancy about stuff 9 that I thought that she needed -- about just 10 trying to help her, Nancy just -- she didn't 11 want to hear it. Nancy, she just knew it all 12 and -- 13 Q. Can you give me some specifics? 14 A. Specifically -- 15 Q. What did you want to talk to her about and how 16 did Nancy respond? 17 A. About -- well, and the black magistrates 18 complained that they thought that they were 19 being racially discriminated against. I never 20 had a white magistrate come to me and say, I 21 feel like I'm being discriminated against 22 ever. I had a -- well, and then the 23 magistrates came to me, complaining about</p>

105 (Pages 417 to 420)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 421

1 Nancy. Let's put that in there. Valarie
 2 Savage, Michelle Bryan came to my office.
 3 **Q. What did Valarie Savage complain about?**
 4 A. They said that Mary -- Nancy was letting Mary
 5 Beth run the office, that Nancy didn't know
 6 what she was doing, she was implementing all
 7 Mary Beth's policies, that Mary -- they knew
 8 for a fact that Mary Beth was writing the
 9 memos about policies and procedures and Nancy
 10 was merely signing them.
 11 **Q. When did Valarie tell you this?**
 12 A. What day was that on her calendar? June
 13 something? She had it on her calendar that
 14 Valarie complained that things weren't going
 15 Mary Beth's way.
 16 **Q. Well, since you was told that Mary Beth is**
 17 **writing policy, I'm sure, especially since**
 18 **Nancy was getting paid for being the**
 19 **administrator, you did a memo to Nancy about**
 20 **that?**
 21 A. No. I called Nancy in my office, and that's
 22 why she said about the racial discrimination.
 23 I said, Nancy, everybody is complaining. You

Page 422

1 know, every -- this office is deteriorating.
 2 You know, I wasn't trying to write Nancy up.
 3 I guess I should have. I was trying to help
 4 Nancy. I needed a court administrator.
 5 **Q. Now, earlier you said you wanted people to put**
 6 **their complaints in writing?**
 7 A. I did. And that's why I didn't write her up
 8 for it because they wouldn't put it in
 9 writing. And if they had put it in writing, I
 10 would have. But that's why I didn't.
 11 **Q. But you're using it now. You wouldn't**
 12 **consider it then because --**
 13 A. I didn't consider it.
 14 **Q. But now you're going to use it --**
 15 A. As a totality of the circumstances --
 16 **Q. As a totality?**
 17 A. -- of why I was not recommending her for
 18 rehire. But I never disciplined her for any
 19 of these incidents. I never wrote her up.
 20 **Q. You said "everyone." Name me everybody who**
 21 **complained --**
 22 A. Me. I'm complaining.
 23 **Q. One moment. Excuse me.**

Page 423

1 A. The attorneys complained. The police officers
 2 complained.
 3 **Q. We'll get to the police --**
 4 MS. NELSON: Well, she's telling you.
 5 A. Write that down.
 6 MS. NELSON: Let her tell you.
 7 **Q. But I want to talk about the staff.**
 8 MS. NELSON: Then you can come back to it.
 9 **Q. You said the -- I guess you was talking about**
 10 **everybody in the staff complained.**
 11 A. Uh-huh (positive response).
 12 **Q. Give me the names of who in the staff**
 13 **complained.**
 14 A. Ann Baxter, Valarie Savage.
 15 **Q. I want you to pause.**
 16 A. Ann Baxter is white.
 17 **Q. Yeah, I understand that.**
 18 A. Write that down.
 19 **Q. I know that.**
 20 A. Valarie Savage is white.
 21 **Q. Please. Hold on. All right. Well, I'll put**
 22 **them all down. Valarie.**
 23 A. Valarie Savage is white. Ann Baxter is

Page 424

1 white. Michelle Bryan, her best friend,
 2 complained with Valarie. Lavera and Eunice
 3 claimed that they were being treated
 4 differently because of their race, and they
 5 went to Personnel and made a formal complaint
 6 about being -- that they felt that they were
 7 being treated differently.
 8 **Q. I never got a copy --**
 9 A. Tonya complained.
 10 **Q. Stop for a second. I never got a copy of**
 11 **their formal complaint from Personnel.**
 12 A. Okay. Tonya complained.
 13 **Q. Hold on.**
 14 A. I don't know if it was in writing or not.
 15 **Q. A formal complaint that wasn't in writing?**
 16 A. Oh, I don't know. I don't know. Check.
 17 Tonya complained that she was attacked by
 18 Nancy because of something that she didn't
 19 know. And Nancy told her she should know, and
 20 she felt attacked. So that's all your
 21 magistrates except Mary Beth and Mary Turner.
 22 **Q. They didn't complain.**
 23 A. And Sarah.

106 (Pages 421 to 424)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 425</p> <p>1 Q. And Sarah didn't complain.</p> <p>2 A. They never came to me and complained.</p> <p>3 Q. So they -- all right. Now let's talk about</p> <p>4 Ann Baxter. When did she complain?</p> <p>5 A. Oh, over the course of -- they felt that Mary</p> <p>6 Beth through -- Nancy through Mary Beth --</p> <p>7 Nancy didn't know anything about the computer</p> <p>8 system. She didn't know how to go on the</p> <p>9 computer system. She never learned. She</p> <p>10 couldn't help me in court.</p> <p>11 We were in sitting in court one day. We</p> <p>12 didn't have anybody to work court. She had</p> <p>13 been there months. You asked when that</p> <p>14 happened. That was after the first</p> <p>15 evaluation, but she never picked up. She</p> <p>16 never learned. So I needed somebody to work</p> <p>17 court. She had been there six or seven</p> <p>18 months. She expected magistrates to be</p> <p>19 proficient in the computer system, but she had</p> <p>20 seven or eight months. And she never even</p> <p>21 learned how to log on.</p> <p>22 Q. All right. But --</p> <p>23 A. So when she tells you --</p>	<p style="text-align: right;">Page 427</p> <p>1 By the way, did Ann complain about anything</p> <p>2 else?</p> <p>3 A. Not that -- specifically. I reserve the right</p> <p>4 to supplement as I think of it.</p> <p>5 Q. All right. What did Valarie complain about?</p> <p>6 By the way, do you know when Ann made her</p> <p>7 complaint?</p> <p>8 A. Huh-uh (negative response).</p> <p>9 Q. Don't know.</p> <p>10 A. Valarie complained that --</p> <p>11 MS. NELSON: You've already testified some</p> <p>12 about Valarie.</p> <p>13 THE WITNESS: Yeah.</p> <p>14 A. Well, she came over to my office and said that</p> <p>15 they knew that Mary -- that Nancy was not</p> <p>16 doing -- that Mary Beth was telling Nancy what</p> <p>17 to do, that Mary -- Nancy was doing everything</p> <p>18 Mary Beth told her, that Nancy had written --</p> <p>19 Mary Beth had written a memo and that Nancy</p> <p>20 had just signed it, that she was allowing Mary</p> <p>21 Beth -- because she didn't know, she was being</p> <p>22 held hostage by Mary Beth's knowledge and Mary</p> <p>23 Turner's knowledge.</p>
<p style="text-align: right;">Page 426</p> <p>1 Q. Over and above Nancy learning the computer</p> <p>2 system, what did Ann Baxter complain about?</p> <p>3 A. That she was pointing out errors that Mary</p> <p>4 Beth was giving her, those reversals, because</p> <p>5 Mary Beth was the cashier. And she had to</p> <p>6 make the reversals. And, also, Mary Beth had</p> <p>7 the ability to go into the computer under</p> <p>8 anybody's password and change things.</p> <p>9 Q. All right.</p> <p>10 A. And they were alleging that Mary Beth was</p> <p>11 changing things in the computer under their</p> <p>12 password.</p> <p>13 Q. Is Ann still an employee?</p> <p>14 A. Yes.</p> <p>15 Q. Do you have a statement from Ann?</p> <p>16 A. No. Do you want me to get one?</p> <p>17 Q. Do you anticipate getting a statement from</p> <p>18 Ann?</p> <p>19 A. I don't know what my lawyer anticipates.</p> <p>20 Q. You don't know what your lawyer anticipates?</p> <p>21 And you've tried to get a statement from her.</p> <p>22 Okay.</p> <p>23 Now Valarie, what did she complain about?</p>	<p style="text-align: right;">Page 428</p> <p>1 They would put in here, the black</p> <p>2 magistrates complained that even though they</p> <p>3 were not allowed to go out the back door, that</p> <p>4 Michelle Bryan -- you want to write that</p> <p>5 down -- Valarie were putting a bucket in</p> <p>6 another side door and going outside and</p> <p>7 smoking to the point that the city manager</p> <p>8 asked, why were they smoking so much. And,</p> <p>9 so, that -- they were being written up and</p> <p>10 disciplined for going out the back door, but</p> <p>11 there was another side door that was not the</p> <p>12 front door. But they weren't being --</p> <p>13 Q. Well, was the side door off limits as well?</p> <p>14 A. It was not the main door. Yes.</p> <p>15 Q. And it was off limits as well?</p> <p>16 A. It was a security risk. It has a fire thing</p> <p>17 on it. They would go out there and put a</p> <p>18 bucket in it. But, again, I wasn't up there.</p> <p>19 Just like I didn't see Lavera and Eunice going</p> <p>20 out the back door, I didn't see them doing</p> <p>21 that.</p> <p>22 Q. All right. So the two blacks complained about</p> <p>23 these whites --</p>

107 (Pages 425 to 428)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 429

1 A. All kinds of stuff.
 2 **Q. All kinds of stuff.**
 3 A. A white magistrate being granted leave when
 4 she did not have any.
 5 **Q. Well, I understand about the leave.**
 6 A. And -- well, let's write that down. You asked
 7 about who complained.
 8 Lavera and Eunice complained that Michelle
 9 Bryan was granted leave when she did not have
 10 any in contravention of personnel rules and
 11 regulations to go to a distant niece's
 12 hospital when Eunice, who had leave, was
 13 denied leave to go to the doctor and the
 14 hospital --
 15 **Q. I know about that incident.**
 16 A. -- with her daughter.
 17 **Q. All right.**
 18 A. Okay. Then there was another incident where
 19 Lavera changed a cash bond, and she was
 20 reprimanded or Nancy wanted to reprimand her.
 21 But Sarah Fowler, who is white, changed a bond
 22 the same day under the same circumstances when
 23 Valarie was off -- out of work. And Nancy --

Page 430

1 and she was not reprimanded. Sarah Fowler was
 2 not counseled about it.
 3 **Q. So it's your position that Nancy was**
 4 **discriminating against the black employees?**
 5 A. No, I'm -- that was their allegation. That's
 6 not my position.
 7 MS. NELSON: You were asking about what
 8 magistrates complained about.
 9 THE WITNESS: Right.
 10 MS. NELSON: And she's telling you.
 11 **Q. All right. Well, I'm trying to hear -- is**
 12 **that your position.**
 13 A. That was not my position. That was their
 14 allegations. That was not my position.
 15 **Q. Do you think that allegation had merit?**
 16 A. I didn't know. I didn't -- I didn't want to
 17 think that it did.
 18 **Q. Did you look into it to see if it had merit?**
 19 A. I referred them to Personnel because I didn't
 20 to want to appear biased.
 21 **Q. Well, did they file a formal complaint, or you**
 22 **don't know if they filed a formal complaint?**
 23 A. I don't know. I know they did come over here

Page 431

1 and talk with Kai about it.
 2 **Q. All right. Now, what did Michelle Bryan**
 3 **complain about?**
 4 A. The same thing that Valarie did. They were
 5 together.
 6 **Q. The two of them were together, came to your**
 7 **office and complained?**
 8 A. Uh-huh (positive response).
 9 **Q. About that?**
 10 A. What I said Valarie complained about.
 11 **Q. So she didn't have an independent complaint,**
 12 **just whatever Valarie -- and Valarie**
 13 **complained about --**
 14 A. Well, they felt that -- that Nancy didn't know
 15 what she was doing, so she was allowing the
 16 magistrates to -- to tell her what to do.
 17 **Q. Now, did Tonya provide any specifics on this**
 18 **attack that you talked about?**
 19 A. Not -- well, she said that there was something
 20 that Nancy gave her to do that she did not
 21 know how to do, and when she attempted to tell
 22 Nancy that, Nancy attacked -- she felt jumped
 23 all over her, and it wasn't fair.

Page 432

1 **Q. Let me ask you this: Did any of these**
 2 **complaints occur prior to Nancy's first**
 3 **evaluation?**
 4 A. I don't think so. I don't know. I might have
 5 just tried to work them out with her and
 6 not -- because they weren't -- you know, I was
 7 trying to work it out. I wasn't trying to
 8 write her. I was trying to keep her.
 9 MS. NELSON: Just answer as best you can.
 10 THE WITNESS: I'm sorry.
 11 **Q. You said police officers had complained as**
 12 **well?**
 13 (Brief pause)
 14 MS. NELSON: He's asking about police
 15 evaluations -- I mean, police
 16 officer or police --
 17 **Q. The police also complained?**
 18 MS. NELSON: Police officer or police
 19 chief?
 20 **Q. Both police chief and police officers or just**
 21 **police chief?**
 22 A. I know there was one incident with a
 23 lieutenant.

108 (Pages 429 to 432)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 433

1 **Q. What's his name?**
 2 A. Martin, about the dockets not being posted.
 3 **Q. What's his name?**
 4 A. I don't know. I think it's Lieutenant Martin.
 5 **Q. What about the dockets not being posted?**
 6 A. Well, it wasn't that. Well, I'm not going to
 7 say it wasn't that. Mary Beth always said she
 8 did post them. It was a continuous --
 9 **Q. Well, what did --**
 10 A. That the -- that the dockets weren't being
 11 posted, so the officers didn't know to be in
 12 court. And, also, that the magistrates were
 13 refusing to give warrants. It was generally
 14 just about the way that the attitude at the
 15 magistrates' office had deteriorated.
 16 **Q. Deteriorated from how bad you told Nancy it**
 17 **was when she came?**
 18 A. No. Not -- it wasn't bad as far as their
 19 relationship, but their attitude toward --
 20 toward the police department.
 21 **Q. Did Officer Martin ever give a written**
 22 **complaint?**
 23 A. I don't think so. I think I just talked to

Page 434

1 Mary.
 2 **Q. Have you gotten a statement from him?**
 3 A. It was Lieutenant Martin I think. I don't
 4 remember specifically which it was.
 5 **Q. Now, you mentioned --**
 6 A. Again, I didn't discipline her for any of
 7 those.
 8 **Q. Your attorney said yesterday there was**
 9 **something about White -- suggested that**
 10 **White -- Chief White had did a complaint?**
 11 A. If I remember, he was just recounting some of
 12 the problems his officers had had with
 13 warrants.
 14 **Q. Just recounting problems with warrants.**
 15 A. Right.
 16 **Q. What was the problem with warrants?**
 17 A. I say with "warrants." With the magistrates'
 18 refusal to assist them or -- you know, not say
 19 complained. It was -- I don't know if it was
 20 just specifically about attitude and -- and,
 21 like I said, the attitude of magistrates just
 22 kind of deteriorated under her.
 23 **Q. So some vague magistrates not assist on the**

Page 435

1 **warrants.**
 2 A. No. I'm sure he was specific at the time.
 3 **Q. But you don't remember any specifics?**
 4 A. I remember it was about officers' complaints
 5 about the magistrates' attitudes.
 6 **Q. And you didn't write any of this up, did you?**
 7 A. I didn't -- no. I did not discipline her for
 8 any of that because she was new, and I knew
 9 that she was learning. I tried to give her
 10 the benefit of the doubt because of her
 11 newness. And I tried to give her the benefit
 12 of the doubt because she did not have prior
 13 magisterial knowledge. I tried to work with
 14 her. I tried to help her.
 15 **Q. Now, I'm sorry. The reason that you never**
 16 **gave Nancy any written notices of any of this**
 17 **was what now?**
 18 A. Any written notices of any of this?
 19 **Q. Yeah.**
 20 A. Well, we had two verbal counselings leading up
 21 to her last evaluation. Well, she was only
 22 there nine months. So it was -- we had two
 23 verbal counselings, one in June, then a month

Page 436

1 later in July because I had given her a
 2 month. And then I don't know what happened.
 3 And then August, September -- I don't
 4 remember.
 5 **Q. You know, in one of your statements, you said**
 6 **that the defendants came to court, many of**
 7 **them had to miss work and was unable to have**
 8 **their trial. And they had to have the trials**
 9 **delayed.**
 10 **Can you give me any names of defendants**
 11 **whose trials was delayed?**
 12 A. No. We'd have to pull the docket. When was
 13 that, two thousand and something? We'd have
 14 to pull -- try to find those dockets.
 15 **Q. Now, can you e-mail me or have your attorney**
 16 **e-mail me the names of those defendants**
 17 **whose --**
 18 A. If we can find them.
 19 **Q. -- trials was delayed?**
 20 MS. NELSON: We'll discuss that, if she
 21 has any recollection of it.
 22 MR. JAFFREE: So if I don't get anything,
 23 can I assume that you couldn't find

109 (Pages 433 to 436)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 437

1 them; is that what I should assume?
 2 MS. NELSON: Well, you've made no formal
 3 request for such, and I'm not going to
 4 commit here now to go pull that
 5 information.
 6 MR. JAFFREE: She has mentioned them here
 7 for the first time.
 8 MS. NELSON: Well, a lot of things have
 9 been mentioned for the first time.
 10 Doesn't mean it's necessarily
 11 something that we have to produce to
 12 you.

13 **Q. You indicated that Ms. Martin applied**
 14 **discipline and personnel rules in a arbitrary**
 15 **and capricious manner.**
 16 Were there anything other than what you've
 17 told me that you're referring to?
 18 A. Excuse me. Where are you reading from,
 19 Mr. Jaffree?
 20 **Q. I'm not quite sure. On one of your things**
 21 **here, you said Martin -- probably on your July**
 22 **8th memo -- "Ms. Martin continues to apply**
 23 **discipline and personnel rules in an arbitrary**

Page 438

1 **and capricious manner."**
 2 MS. NELSON: Well, where are you reading
 3 from?
 4 THE WITNESS: He just said, he didn't
 5 know.
 6 MR. JAFFREE: I sort of incorporated this
 7 in my notes. So my guess is it's on
 8 the June -- I mean, July the 8th memo.
 9 A. Well, I mentioned the one where the employee
 10 was granted leave that did not have any in
 11 violation of personnel rules and regulations.
 12 MS. NELSON: The July memo that you're
 13 looking at is dated -- is Plaintiff's
 14 Exhibit Number 9.
 15 A. And I did not write her up for that at that
 16 time even though she did it in contravention
 17 of personnel rules and regulations. She
 18 should not have granted a magistrate who did
 19 not have leave, leave without department head
 20 approval. But what was more -- worse than
 21 that was that the employee had no leave and it
 22 was her husband's niece; but she had a
 23 magistrate with a daughter who had leave and

Page 439

1 she denied it.
 2 **Q. All right. Now, what magistrate didn't have**
 3 **any leave?**
 4 A. Michelle Bryan.
 5 MS. NELSON: We've already been over this.
 6 **Q. And I need to go back and cover -- got one**
 7 **area to cover.**
 8 MS. NELSON: Are we getting close to being
 9 done? It's almost --
 10 MR. JAFFREE: I'm trying to -- almost
 11 what?
 12 MS. NELSON: It's almost six o'clock.
 13 MR. JAFFREE: Are you serious, that late?
 14 MS. NELSON: A quarter till six.
 15 **Q. I need to go back to this ticket.**
 16 Part of your reason for the termination of
 17 Ms. Brackin was her allegedly not accounting
 18 for a ticket by putting "void" on the
 19 transmittal form within two years from being
 20 placed on probation.
 21 Do you agree that this ticket incident did
 22 not happen within two years of her being
 23 placed on probation?

Page 440

1 MS. NELSON: I'm not sure what you're
 2 talking about. I think you --
 3 A. Well, we discovered --
 4 **Q. The transmittal issue, that did not occur**
 5 **within two years of her being placed on**
 6 **probation?**
 7 A. We discovered it within two years. We would
 8 not have known if it hadn't come up in the
 9 course of an investigation.
 10 **Q. But it didn't happen within two years, right?**
 11 A. It didn't, the conduct?
 12 **Q. The conduct didn't happen within two years?**
 13 A. That's my understanding.
 14 MS. NELSON: Two years of her --
 15 MR. JAFFREE: Being placed on probation.
 16 **Q. Well, isn't it true, that not only did you add**
 17 **it, that that ticket thing was to try to find**
 18 **some vehicle to justify terminating**
 19 **Ms. Brackin?**
 20 MS. NELSON: Object to the form.
 21 A. I didn't even know about the ticket. It was
 22 discovered during an investigation of another
 23 complaint. I didn't -- I didn't invent it.

110 (Pages 437 to 440)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 441

1 It was not a pretext for anything. It was
 2 discovered by an independent investigator.
 3 **Q. Isn't it true that but for Mary's discipline**
 4 **before allegedly informing a defendant he had**
 5 **been wrongfully arrested, the insubordinate**
 6 **incident would not have been enough to**
 7 **terminate her?**
 8 MS. NELSON: Object to the form.
 9 **Q. Yes or no? Is that true or not?**
 10 MS. NELSON: I don't know what you're --
 11 **Q. If it wasn't for that prior incident, the**
 12 **insubordinate incident --**
 13 MS. NELSON: The Fondren incident. Can't
 14 we just -- instead of reading your
 15 notes, can't you just ask your
 16 question? There was a Fondren
 17 insubordination in two thousand --
 18 MR. JAFFREE: Fondren. I don't know if
 19 that was insubordination but the
 20 Fondren incident --
 21 MS. NELSON: That was an insubordination.
 22 **Q. The Fondren incident, but for that, there**
 23 **wouldn't have been a basis to terminate her**

Page 442

1 **because of her contact with Mary. Do you**
 2 **agree with that? Or are you saying the Mary**
 3 **incident alone is enough to terminate**
 4 **Ms. Brackin's employment?**
 5 A. It was a major violation. I don't know if it
 6 was enough alone to violate -- to terminate
 7 her.
 8 **Q. Well, let me ask you this: With respect to**
 9 **the Fondren incident, would you agree --**
 10 A. I didn't initiate the Fondren investigation.
 11 MR. JAFFREE: I'm rushing and I'm trying
 12 to get everything done. I'm really
 13 trying to rush out of here.
 14 **Q. You stated before that Mary Beth told**
 15 **Mr. Fondren that he had been wrongfully**
 16 **arrested and that Mr. Fondren admitted that**
 17 **Mary Beth told him that.**
 18 **You haven't stated that? I've got some**
 19 **records that --**
 20 A. Well, that's what the -- the letter from
 21 Mr. Fondren said.
 22 **Q. Well, it doesn't say that, does it?**
 23 A. Well, it says, On June 1st I was wrongfully

Page 443

1 arrested. Mary Beth can confirm this. "She
 2 also said I should see you about getting my
 3 towing fee." And this went to City's clerk's
 4 office, and they sent it to an investigator.
 5 **Q. I mean, does that say that Mary Beth told him**
 6 **that he was wrongfully arrested?**
 7 A. No. I think the investigation revealed that
 8 she told them that.
 9 **Q. Revealed that from Mary Beth's mouth?**
 10 A. Well, Mary Beth, of course, said she didn't,
 11 but everybody said she did.
 12 **Q. Well, Mr. Fondren said she didn't; isn't that**
 13 **correct?**
 14 A. I don't remember.
 15 **Q. If I stated that the record says that**
 16 **Mr. Fondren said that she didn't tell him**
 17 **that, would you agree that's what the record**
 18 **says?**
 19 MS. NELSON: Object to the form. I think
 20 the investigation itself reveals what
 21 occurred. The investigation will
 22 speak for itself.
 23 **Q. Did you read that entire investigative report?**

Page 444

1 A. I'm sure I did.
 2 **Q. If Mr. Fondren said that Mary Beth didn't tell**
 3 **him that he had been wrongfully arrested and**
 4 **then she says she didn't tell him, then upon**
 5 **what basis are you making a claim that she**
 6 **told him he was wrongfully arrested?**
 7 MS. NELSON: Object to the form. Object
 8 that it's speculative. Assumes facts
 9 not in evidence.
 10 **Q. Well, I mean, if, in fact, the two of them --**
 11 MS. NELSON: Calls for -- it's a
 12 hypothetical.
 13 **Q. -- said that he was not wrongfully arrested?**
 14 **And he certainly don't say it on this document**
 15 **that she told me I was wrongfully arrested.**
 16 A. That she can confirm that he was wrongfully
 17 arrested.
 18 **Q. But does it also say that --**
 19 MS. NELSON: The document can speak for
 20 itself.
 21 **Q. All right. Well, let's talk about this**
 22 **document.**
 23 MS. NELSON: You can try to interpret it

111 (Pages 441 to 444)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 445

1 the way you want to.

2 **Q. Do you know who Harrison Far is?**

3 A. I think --

4 **Q. Do you know that name Harrison Far, F-A-R?**

5 A. I think he -- I could say, but I don't know

6 Harrison's last name.

7 **Q. Well, what is the CRO; what does that stand**

8 **for?**

9 A. Court referral officer.

10 **Q. Is that part of the City of Dothan?**

11 A. No.

12 **Q. Who are they associated with?**

13 A. There's a -- what is it -- Mandatory Treatment

14 Act that requires that any crime involving

15 drugs, alcohol, or domestic violence has to go

16 through a court-ordered --

17 **Q. Is he saying that Mr. Far told him that he was**

18 **wrongfully arrested, according to your**

19 **interpretation of that letter?**

20 A. It said, "Mary Beth at the magistrates' office

21 can confirm this. She also said that I should

22 see you about my towing fee."

23 **Q. And he also said Mr. Far can confirm that?**

Page 446

1 A. My CRO -- he can confirm this.

2 **Q. So what are they talking about?**

3 A. I don't know.

4 **Q. Well, you know what he was talking about with**

5 **Mary Beth but you don't know what he's talking**

6 **about with Mr. Far?**

7 A. Well, he says, "I was wrongfully arrested on a

8 false warrant. Mary Beth at the magistrates'

9 office can confirm this."

10 So she must have told him. She had to

11 tell him he had a false arrest.

12 **Q. Well, maybe she confirmed that he was**

13 **wrongfully arrested.**

14 MS. NELSON: I would object to you arguing

15 with the witness. You're not showing

16 her -- you're showing her a letter

17 that can speak for itself. You've got

18 a full investigative report that was

19 done by internal affairs at the

20 direction of the City's legal

21 department.

22 **Q. Did internal affairs give you a copy of their**

23 **internal investigation?**

Page 447

1 A. I don't know that they gave me a copy or that

2 they gave it -- we forwarded it to her -- she

3 had a supervisor -- direct supervisor at that

4 time, did she not? Was not Donna Nicholson

5 her direct supervisor? So she would have

6 gotten the results of the investigation.

7 **Q. Let me ask: Did Mary Beth have a right to**

8 **tell Mr. Fondren that he was wrongfully**

9 **arrested if, in fact, he was?**

10 A. Did she have a right to tell him he was

11 wrongfully -- I don't think Mary Beth could

12 determine what was wrongfully or not. I mean,

13 how -- who is she to determine --

14 **Q. But if she could and she told him he was**

15 **wrongfully arrested, she has a right to do**

16 **it?**

17 MS. NELSON: Object to the form.

18 A. I don't -- I don't think it's -- I don't think

19 she should comment on liability issues.

20 **Q. Did he say anything about her commenting on**

21 **liability issues?**

22 MS. NELSON: Object to the form. The

23 letter can speak for itself.

Page 448

1 **Q. Does the letter say anything about her telling**

2 **him anything about a liability issue?**

3 A. It says, she can -- "I was arrested wrongfully

4 on a false warrant. She said I should see you

5 about getting my towing fee reimbursed,

6 158.90." Mary Beth -- I don't know.

7 **Q. You call that a liability issue?**

8 A. I -- I took -- I looked at the totality of the

9 investigation report and made -- well,

10 actually, I think her supervisor did.

11 **Q. Her supervisor did?**

12 A. Uh-huh (positive response).

13 **Q. Who was her supervisor at the time?**

14 A. I don't remember. Did she have a direct

15 supervisor, Donna Nicholson, at the time?

16 MS. NELSON: Do we have a date?

17 **Q. I don't think so.**

18 MR. JAFFREE: Yeah. 1/7/04.

19 **Q. Remember? This is the one that you had Nancy**

20 **write up?**

21 A. Well, that she would have gotten the report

22 because she was her supervisor at the time.

23 The results didn't come in until Nancy was

112 (Pages 445 to 448)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 449

1 hired. She was her supervisor at the time.
 2 **Q. So if Nancy told you -- testified that you**
 3 **told her to discipline her, Nancy would be**
 4 **lying? You didn't tell her?**
 5 A. Well, I say that I gave -- sent it to Nancy
 6 to -- for her actions, just like I did
 7 anything else that came in, a complaint. She
 8 was their supervisor.
 9 **Q. Did you instruct Nancy to discipline this**
 10 **person?**
 11 A. I don't think -- I told her to review it for
 12 her action. I'm not saying I would say,
 13 Nancy, you write up her for that. She would
 14 have gotten the results of the investigation.
 15 It would have been her decision whether or not
 16 to write her up.
 17 **Q. Well, would you agree that the results of the**
 18 **investigation is, Mary Beth denied that she**
 19 **told him that the City is liable, he didn't**
 20 **mention anything about Mary Beth telling him**
 21 **the City is liable?**
 22 MS. NELSON: Object to the form.
 23 A. She didn't appeal it.

Page 450

1 MS. NELSON: Object to the form. Don't
 2 argue with him. We're getting late in
 3 the day. Why don't we take a --
 4 **Q. Nancy got terminated in part because she was**
 5 **negligent and cannot assign tasks; is that**
 6 **correct?**
 7 MS. NELSON: You're talking about Nancy?
 8 **Q. I'm sorry. Ms. Brackin.**
 9 MS. NELSON: I think the record -- I think
 10 asked and answered. She had two
 11 insubordinations within a two-year
 12 period of time.
 13 **Q. One was negligent; is that right? She was**
 14 **accused of being negligent?**
 15 A. No. I mean, she was accused, but she was
 16 terminated because she had two major
 17 disciplinaries for insubordination within a
 18 two-year period.
 19 **Q. And one of them was being negligent --**
 20 A. And under the personnel rules and regulations,
 21 if you have two major violations in a two-year
 22 period, it's grounds for termination.
 23 **Q. All right. We're talking about negligence**

Page 451

1 **here. Was she accused of being negligent, yes**
 2 **or no?**
 3 A. At some point?
 4 **Q. And isn't it true that, again -- get to**
 5 **Officer Gray, who recommended what category of**
 6 **offense she may have committed?**
 7 A. I -- I don't remember what investigator, but
 8 they always said, we found grounds to believe
 9 that personnel rule da-da-da has been
 10 violated. That's just the basis of their
 11 report, but it doesn't dictate.
 12 **Q. At the risk of hurting my case because of**
 13 **time, I'm going to greatly shorten this, where**
 14 **I need to go. And I've got "googobs" of**
 15 **stuff, but I'm not going to go on with it.**
 16 **But I just want to clarify certain things.**
 17 **Upon what authority do you have city**
 18 **police initiate internal affairs investigation**
 19 **of your employees? Upon what authority?**
 20 A. There is --
 21 MS. NELSON: Again, I object to the form.
 22 I don't know that there is testimony
 23 that she did that, other than perhaps

Page 452

1 the Ralpeje case.
 2 **Q. Upon what authority?**
 3 MS. NELSON: If you know.
 4 A. Well, I don't know the authority. There --
 5 when we need their expertise, when it involves
 6 outside complainants. You know, they're
 7 investigators. They're trained
 8 investigators. And as a department head, I
 9 was under the understanding that we could
 10 utilize their expertise --
 11 **Q. Let's me --**
 12 MS. NELSON: Well, she's trying to answer.
 13 A. But, again, I didn't instigate the Fondren.
 14 That was instigated from another -- that was
 15 not -- I did not use the police to initiate an
 16 investigation of Theron Fondren.
 17 **Q. Who initiated the Fondren investigation?**
 18 MS. NELSON: If you know.
 19 A. I don't know. I think it -- I don't know.
 20 MS. NELSON: If you know.
 21 A. Right. I don't know.
 22 **Q. Somebody under -- interrogated members of your**
 23 **staff, and you don't know who started it?**

113 (Pages 449 to 452)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 453

1 A. No. I--
 2 MS. NELSON: I think the report would
 3 speak to that, if you'd show it to
 4 her.
 5 **Q. Well, I'm asking you if you know.**
 6 MS. NELSON: If you remember.
 7 A. I mean, I know, but I don't remember.
 8 **Q. You know but you don't remember. Okay.**
 9 A. I think it came from the city clerk's Office,
 10 did it not?
 11 **Q. City clerk. Okay.**
 12 A. I don't remember, Mr. Jaffree.
 13 **Q. With respect to the Ralpeje matter?**
 14 MS. NELSON: The what?
 15 MR. JAFFREE: Ralpeje.
 16 MS. NELSON: Ralpeje.
 17 MR. JAFFREE: I'm torturing that name.
 18 **Q. Was there any criminal charges contemplated**
 19 **that would trigger the garrity notice as far**
 20 **as you know?**
 21 MS. NELSON: Again, object to the form.
 22 There's no foundation as to her
 23 knowledge of garrity.

Page 454

1 **Q. Do you understand the question?**
 2 MS. NELSON: Object to the form.
 3 **Q. Ms. Martin was given a garrity notice when the**
 4 **Ralpeje interrogation took place. Do you know**
 5 **if --**
 6 MS. NELSON: Ms. Martin was not employed
 7 when the Ralpeje case took place.
 8 MR. JAFFREE: I'm sorry. Boy, I'm getting
 9 my names mixed. Thanks for clearing
 10 it up for the Record.
 11 **Q. Ms. Brackin was given a garrity notice when**
 12 **the Ralpeje --**
 13 MS. NELSON: You can ask the witness if
 14 she knows whether that happened. I'd
 15 appreciate your not testifying as to
 16 whether that happened or not.
 17 **Q. Do you know whether or not she was given a**
 18 **garrity notice during that investigation?**
 19 A. I think I've seen one. I don't remember.
 20 **Q. Do you know any criminal charges that were**
 21 **contemplated when she was given that notice?**
 22 MS. NELSON: If you know.
 23 A. Well, we had a witness who was saying that he

Page 455

1 felt threatened because Mary Beth had called
 2 him at home, and he didn't know how she got
 3 her (sic) number. And he was concerned, you
 4 know, about how Mary Beth might act
 5 because -- you know, might treat him because
 6 he had to work with her. And he didn't want
 7 to get involved.
 8 So I don't know. He could have said that,
 9 you know, he felt threatened. It involved an
 10 outside complainant coming in saying
 11 some -- one of your city employees has gotten
 12 my phone number. And -- well, he felt
 13 threatened that she wanted him to say that he
 14 didn't hear what she said or that's not what
 15 she said.
 16 And I thought that because he was making
 17 those kinds of allegations that we should have
 18 an outside, independent investigator who could
 19 go talk to Ralpeje's mother, who could go out
 20 and talk to this bondsman, you know, who could
 21 talk to Mary Beth and be independent and
 22 neutral.
 23 **Q. So you thought that there was a possibility of**

Page 456

1 **criminal charges against --**
 2 A. I didn't know. I didn't know what he might
 3 say.
 4 **Q. Well, let's talk about --**
 5 A. He might bring charges against the City for
 6 revealing his information --
 7 **Q. I'm talking about criminal charges.**
 8 A. -- that she used City sources --
 9 **Q. I'm talking about criminal --**
 10 MS. NELSON: She said, she didn't know.
 11 A. I didn't know.
 12 **Q. All right. The Fondren matter, do you know**
 13 **what criminal charges was contemplated or**
 14 **likely with respect to the Fondren --**
 15 MS. NELSON: Object to the form.
 16 **Q. -- the Fondren --**
 17 A. I didn't --
 18 **Q. -- internal affairs?**
 19 A. I didn't initiate the Fondren investigation.
 20 **Q. Yeah. But you don't know about any likely**
 21 **criminal charges?**
 22 A. No. I wasn't involved -- I mean, it went
 23 through me.

114 (Pages 453 to 456)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 457</p> <p>1 Q. Now let's talk about the investigation with</p> <p>2 Mr. Gray and who disclosed information to</p> <p>3 Rickey Stokes.</p> <p>4 Do you know of any criminal charges that</p> <p>5 was contemplated because somebody disclosed</p> <p>6 information to Rickey Stokes?</p> <p>7 MS. NELSON: If you know.</p> <p>8 A. I don't know, and I didn't initiate that</p> <p>9 investigation.</p> <p>10 Q. You didn't initiate that investigation?</p> <p>11 A. No.</p> <p>12 Q. Who initiated that investigation with respect</p> <p>13 to --</p> <p>14 A. I don't remember. It would be in the report.</p> <p>15 Q. -- determine -- so whatever it says in the</p> <p>16 report, that's the person who initiated the</p> <p>17 investigation?</p> <p>18 A. More than likely. Once I talk -- well, yeah,</p> <p>19 more than likely.</p> <p>20 Q. But they gave the report to you after the</p> <p>21 investigation was completed, the police</p> <p>22 officers involved?</p> <p>23 A. I'm sure because there was not a court</p>	<p style="text-align: right;">Page 459</p> <p>1 Mr. Coleman -- Officer Coleman asked</p> <p>2 Mr. Fondren, "Did Ms. Brackin say anything to</p> <p>3 you about being falsely arrested or being</p> <p>4 arrested in error or anything of that nature</p> <p>5 that you were" --</p> <p>6 His response, "I can't remember now.</p> <p>7 Harrison said it was just a computer problem</p> <p>8 or something like that. The record didn't get</p> <p>9 back to the police department or in the</p> <p>10 computer, something like that."</p> <p>11 Mr. Coleman: "Right. Okay. But</p> <p>12 Ms. Brackin never said anything about you</p> <p>13 being falsely arrested -- say that you were</p> <p>14 arrested in error? She ever say that to you?"</p> <p>15 "I don't know if she said that, but that</p> <p>16 was -- that was understood through my</p> <p>17 conversation with Mr. Harrison Far."</p> <p>18 Going on.</p> <p>19 Mr. Coleman: "Did she give you any</p> <p>20 information as far as how to go about turning</p> <p>21 this in or filing this claim?"</p> <p>22 Mr. Fondren: "I think she said go to city</p> <p>23 clerk's office."</p>
<p style="text-align: right;">Page 458</p> <p>1 administrator at the time.</p> <p>2 Q. So it was done from some other department's</p> <p>3 initiation but they gave their report to you?</p> <p>4 A. Because she was in my department.</p> <p>5 Q. I see.</p> <p>6 MR. JAFFREE: Let me see if there's some</p> <p>7 question that I've just got to ask.</p> <p>8 Q. Did you receive any input from any third party</p> <p>9 with your evaluation of Nancy?</p> <p>10 MS. NELSON: Which evaluation?</p> <p>11 Q. The final evaluation.</p> <p>12 MS. NELSON: Other than the complaints</p> <p>13 that she's talked about and her</p> <p>14 conversations with Kai Davis?</p> <p>15 Q. Yeah, other than that, any --</p> <p>16 MS. NELSON: What third party?</p> <p>17 Q. -- input in the evaluation?</p> <p>18 A. I would have shown it to Personnel, but that's</p> <p>19 about it.</p> <p>20 (Brief pause)</p> <p>21 Q. By the way, just for the Record, I want to see</p> <p>22 if you dispute this. This is part of</p> <p>23 Fondren's transcript, page 8.</p>	<p style="text-align: right;">Page 460</p> <p>1 Coleman: "In any event, how did -- after</p> <p>2 you talked with Ms. Brackin, what did she tell</p> <p>3 you?"</p> <p>4 Fondren: "I believe she told me to go to</p> <p>5 the city clerk's office. Somebody told me to</p> <p>6 go the city clerk's office."</p> <p>7 Do you dispute that that's his testimony</p> <p>8 at his --</p> <p>9 MS. NELSON: Object to the form. I think</p> <p>10 she testified that she didn't</p> <p>11 interview him.</p> <p>12 Q. Did you have an opportunity to read His</p> <p>13 testimony?</p> <p>14 A. I -- I don't remember.</p> <p>15 Q. He didn't say --</p> <p>16 A. I think -- I don't remember.</p> <p>17 Q. -- distinctly that she told him that he had</p> <p>18 been falsely arrested, did he, based on that</p> <p>19 testimony?</p> <p>20 A. Well, he kept saying, he didn't remember. And</p> <p>21 I thought the investigator said that he</p> <p>22 thought that he was not being truthful or was</p> <p>23 hesitant about being truthful.</p>

115 (Pages 457 to 460)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 461

1 **Q. I see. So the investigator --**
 2 A. Do you have the beginning of that
 3 investigation?
 4 **Q. But the investigator made an assumption that**
 5 **he wasn't being truthful?**
 6 A. No, not that he made the assumption that he
 7 said that he wasn't.
 8 **Q. Ms. Martin -- sorry -- Ms. Brackin said she**
 9 **didn't tell them that and the investigator**
 10 **just reached his own conclusion?**
 11 MS. NELSON: Object to the form.
 12 **Q. And you accepted the investigator's**
 13 **conclusion?**
 14 A. No. I just looked at the results of the
 15 investigation in it's totality. I'm sure I
 16 looked at everything.
 17 **Q. But do you know what totality suggested**
 18 **that --**
 19 A. I'd have to read it.
 20 **Q. -- in spite of his testimony, in spite of**
 21 **Ms. Brackin's testimony, she told him he was**
 22 **falsely arrested?**
 23 A. I'd have to read it.

Page 462

1 MS. NELSON: Object to the form.
 2 **Q. You'd have to read and get the totality of**
 3 **evidence that suggested that?**
 4 A. Right. And also give the investigator, you
 5 know, some credibility for his investigative
 6 technique. And I just looked at everything.
 7 I wasn't trying to write Mary Beth up.
 8 **Q. So why not just let the investigator make the**
 9 **decision; why not take yourself out of the**
 10 **decision-making role altogether?**
 11 MS. NELSON: Object to the form.
 12 A. Well --
 13 **Q. Can you answer that?**
 14 A. Because I was the department head.
 15 **Q. I see.**
 16 A. And the supervisor I assume. Well, no, I
 17 wasn't.
 18 Didn't Nancy write her up on Fondren? I
 19 don't think I did -- I did the writeup.
 20 **Q. Just so I'm clear, if Nancy said that whatever**
 21 **she wrote was at your direction, would you**
 22 **dispute that?**
 23 MS. NELSON: I'd ask that you show her

Page 463

1 the -- I think it's getting late in
 2 the day. We're all tired.
 3 MR. JAFFREE: You could say that again.
 4 MS. NELSON: I would ask if you would show
 5 her the writeup. My recollection was
 6 that it was a time frame in early 2004
 7 perhaps that there was -- Nancy was
 8 new.
 9 MR. JAFFREE: Maybe I'm finished going
 10 over these, these productions.
 11 **Q. Let me see if there's anything I need to ask**
 12 **you about that I can't consult with your**
 13 **attorney about.**
 14 **Can I ask you: Do you currently have a**
 15 **affidavit or a declaration from anybody**
 16 **concerning the facts of this case?**
 17 A. No.
 18 **Q. Well, if you don't currently have it, do you**
 19 **contemplate receiving one from somebody within**
 20 **the next two weeks concerning the facts of**
 21 **this case?**
 22 MS. NELSON: Object to the form.
 23 A. If -- if I -- if my lawyer asked me to. I

Page 464

1 don't know. I don't anticipate getting an
 2 affidavit from anybody.
 3 **Q. But you wouldn't be the one that would get it,**
 4 **would you? It would be your lawyer?**
 5 MS. NELSON: I object to any
 6 discussions or any attorney/client
 7 privilege here.
 8 MR. JAFFREE: She said that she don't
 9 anticipate getting it. I'm just
 10 trying to clarify that she is probably
 11 not the one who would be getting it.
 12 **Q. You stated before in your testimony that there**
 13 **were no internal memo discussing how**
 14 **transmittals are supposed to be handled once a**
 15 **police officer calls and says, send back the**
 16 **ticket. And you said, no, there aren't any.**
 17 **Is that still your position?**
 18 A. I didn't -- I kind of got it. About the
 19 transmittals?
 20 **Q. You stated in your testimony -- and that is**
 21 **240. Maybe I left off the two in these**
 22 **numbers. I was --**
 23 A. My testimony where?

116 (Pages 461 to 464)

367 VALLEY AVENUE
 (205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 465	Page 467
<p>1 Q. At the administrative hearing.</p> <p>2 MS. NELSON: For who?</p> <p>3 MR. JAFFREE: Pardon?</p> <p>4 MS. NELSON: What administrative hearing?</p> <p>5 MR. JAFFREE: For Ms. Brackin.</p> <p>6 Q. I asked you on page 244: "Is there an</p> <p>7 internal memorandum discussing how the</p> <p>8 transmittals are supposed to be handled once a</p> <p>9 police officer calls and says, send back the</p> <p>10 ticket?"</p> <p>11 And you said, "not specifically."</p> <p>12 Is that still your position?</p> <p>13 A. That there are -- do I have any memos about</p> <p>14 how transmittals to the State of Alabama are</p> <p>15 to be handled when a police officer calls back</p> <p>16 and says, send back the ticket?</p> <p>17 Q. Uh-huh (positive response).</p> <p>18 MS. NELSON: Object to the form. A ticket</p> <p>19 that's already been sworn to?</p> <p>20 MR. JAFFREE: Well, I'm glad you mentioned</p> <p>21 the "sworn to."</p> <p>22 Q. What does a ticket being sworn to mean to you?</p> <p>23 A. Well, once they swear to, it's a complaint.</p>	<p>1 MR. JAFFREE: I didn't ask her that.</p> <p>2 MS. NELSON: -- once the police officer</p> <p>3 says to send them back.</p> <p>4 MR. JAFFREE: I didn't ask her that. I</p> <p>5 asked her if -- if I read her</p> <p>6 response.</p> <p>7 MS. NELSON: I think the court reporter</p> <p>8 could read back the statement but --</p> <p>9 MR. JAFFREE: I know exactly what I said</p> <p>10 because I read it right here. I asked</p> <p>11 her is that still her answer, that</p> <p>12 they don't have any internal</p> <p>13 memorandum talking about what she</p> <p>14 should do in situations like that.</p> <p>15 But since you mentioned that --</p> <p>16 MS. NELSON: And the situation -- and</p> <p>17 that's when I asked, once the ticket</p> <p>18 is turned into the magistrates'</p> <p>19 office; is that correct?</p> <p>20 MR. JAFFREE: Yeah. And then you changed</p> <p>21 the subject.</p> <p>22 MS. NELSON: No. I said, at that point</p> <p>23 when it's sworn -- it's sworn to when</p>
Page 466	Page 468
<p>1 It has to go through the court system.</p> <p>2 Q. Does a magistrate have to sign this ticket?</p> <p>3 A. Does he have to sign the ticket?</p> <p>4 Q. Uh-huh (positive response). You see this --</p> <p>5 MS. NELSON: Well, let her answer. Does</p> <p>6 she have to sign it? What's your</p> <p>7 question?</p> <p>8 Q. That's a interesting legal question and maybe</p> <p>9 you could shed some light on it.</p> <p>10 MS. NELSON: Are we leaving this other</p> <p>11 question on the table here. I mean,</p> <p>12 you're switching gears.</p> <p>13 MR. JAFFREE: Which question?</p> <p>14 MS. NELSON: The question you'd asked</p> <p>15 about two minutes ago.</p> <p>16 MR. JAFFREE: About what? Because I done</p> <p>17 forgot. What question are we talking</p> <p>18 about? Because I'm now on the</p> <p>19 ticket. So what question --</p> <p>20 MS. NELSON: You were asking the judge</p> <p>21 about her policy about -- on what is a</p> <p>22 person or magistrate supposed to do</p> <p>23 with a ticket --</p>	<p>1 it's turned in to the magistrates'</p> <p>2 office. Is that what you're asking?</p> <p>3 MR. JAFFREE: Yeah. That triggered the</p> <p>4 change of direction here.</p> <p>5 Q. Let me ask this and then I'm going to get to</p> <p>6 that. Do you know of any other situation ever</p> <p>7 when a police officer called a magistrate and</p> <p>8 said, send me back the ticket? That's a</p> <p>9 unique occurrence, isn't it, as far as you</p> <p>10 know?</p> <p>11 MS. NELSON: Can I object to the form? I</p> <p>12 don't know that there's any testimony</p> <p>13 that the police officer called the</p> <p>14 magistrate and said, send back the</p> <p>15 ticket. I think the testimony was</p> <p>16 kind of to the contrary, that Mary</p> <p>17 Turner called the police officer</p> <p>18 and --</p> <p>19 MR. JAFFREE: You're right.</p> <p>20 Q. Do you know of any situation where a</p> <p>21 magistrate have called a police officer and</p> <p>22 the police officer said, send me back the</p> <p>23 ticket, any other situation like that?</p>

117 (Pages 465 to 468)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 469</p> <p>1 MS. NELSON: Object to the form. There's</p> <p>2 not any. You say "any other."</p> <p>3 There's not one. The testimony in</p> <p>4 this case -- you're misrepresenting</p> <p>5 the testimony in the case.</p> <p>6 MR. JAFFREE: Well, what do you think is</p> <p>7 the testimony in the case? You just</p> <p>8 said Mary Turner called this officer,</p> <p>9 right? And the officer said, okay,</p> <p>10 just send me the ticket. And that's</p> <p>11 the record.</p> <p>12 Q. Assuming that that's the record, that the</p> <p>13 office told a magistrate, okay --</p> <p>14 A. After he had been in and sworn to the ticket</p> <p>15 and left?</p> <p>16 Q. After he had been in, do you know of any</p> <p>17 situation where that have happened before?</p> <p>18 A. Once he swore to the ticket --</p> <p>19 Q. Yeah.</p> <p>20 A. -- a magistrate called him and said, can you</p> <p>21 get rid of this ticket? He said, yeah, just</p> <p>22 send it to me?</p> <p>23 Q. Yeah. Did --</p>	<p style="text-align: right;">Page 471</p> <p>1 Q. Yeah. When this incident occurred.</p> <p>2 A. I don't know specifically.</p> <p>3 (Plaintiffs' Exhibit 12 was marked</p> <p>4 for identification.)</p> <p>5 Q. All right. Well, here, let me show you</p> <p>6 Plaintiff's Exhibit 12 and ask you, verified</p> <p>7 and acknowledged, that judge or magistrate,</p> <p>8 what is that part for? You see that?</p> <p>9 A. Judge or magistrate? Where is that, judge or</p> <p>10 magistrate?</p> <p>11 Oh, that's where they swear to it.</p> <p>12 Q. No, she didn't swear to --</p> <p>13 (Brief interruption)</p> <p>14 MS. NELSON: We're about to get out of our</p> <p>15 time limit here, Mr. Jaffree.</p> <p>16 MR. JAFFREE: Well, as soon as I cover</p> <p>17 this, I'm out of here.</p> <p>18 MS. NELSON: I may have a couple of</p> <p>19 questions just to clarify, but I'm</p> <p>20 just saying, we need to move it on in</p> <p>21 here.</p> <p>22 Q. Now, did you have a chance --</p> <p>23 A. She didn't sign it.</p>
<p style="text-align: right;">Page 470</p> <p>1 A. No, I don't.</p> <p>2 Q. You don't. So this is a first time as far as</p> <p>3 you know?</p> <p>4 A. Those specific facts, yes.</p> <p>5 Q. And that's probably why there's no policy on</p> <p>6 this because it just haven't happened before,</p> <p>7 right?</p> <p>8 A. Well, no. The -- the -- there's state law and</p> <p>9 state regulations -- AOC regulation that says</p> <p>10 once a complaint is sworn to -- a ticket is</p> <p>11 sworn to, it becomes a complaint. So we</p> <p>12 didn't -- any internal policy we would have</p> <p>13 had would have been superceded by state law</p> <p>14 anyway.</p> <p>15 Q. But you haven't trained your magistrates on</p> <p>16 any state law dealing with that, have you?</p> <p>17 A. AOC does. It's in their -- in their rule</p> <p>18 book. They learn it.</p> <p>19 Q. Do you know if Ms. Brackin had been trained on</p> <p>20 that law?</p> <p>21 A. Yes.</p> <p>22 Q. She was trained in 2001?</p> <p>23 A. In 2001?</p>	<p style="text-align: right;">Page 472</p> <p>1 Q. My question is -- and maybe you can shed some</p> <p>2 light -- is the magistrate's signature or a</p> <p>3 judge's signature necessary on that ticket?</p> <p>4 MS. NELSON: Necessary for what?</p> <p>5 Q. Necessary to put that ticket into the court</p> <p>6 system?</p> <p>7 A. If he swore to the ticket like she said he did</p> <p>8 and like he said he did. I don't know that</p> <p>9 that's a fatal error that she didn't sign it.</p> <p>10 Q. But it could be?</p> <p>11 A. I don't know that it is, no.</p> <p>12 Q. And you don't know that it's not?</p> <p>13 A. No. His testimony was I think that he swore</p> <p>14 to it, he knew it was there, and he left</p> <p>15 and --</p> <p>16 (Plaintiffs' Exhibit 13 was marked</p> <p>17 for identification.)</p> <p>18 Q. Okay. All right. And in this Plaintiffs' --</p> <p>19 what number is that, 12, 13 -- Plaintiffs'</p> <p>20 Exhibit 13, this is not the original of that</p> <p>21 transmittal sheet, but do you know if the</p> <p>22 original had any Wite-Outs in it?</p> <p>23 A. No, I don't know.</p>

118 (Pages 469 to 472)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 473

1 **Q. Do you know for a fact at the time she**
 2 **wrote -- Mary Brackin wrote "void," that she**
 3 **had the ticket in front of her?**
 4 A. Do I know that for a fact?
 5 **Q. Yeah.**
 6 A. No, I don't know it for a fact.
 7 **Q. So if she testifies that she didn't have the**
 8 **ticket in front of her when she wrote that**
 9 **void in, that could have been correct**
 10 **testimony?**
 11 MS. NELSON: Object to the form. I'm not
 12 sure what you're asking.
 13 **Q. Well, let me just see what we can agree on**
 14 **since you're hesitating answering that**
 15 **question.**
 16 A. No, she signed that she -- that she had it. I
 17 mean, I don't know if she changed her mind.
 18 **Q. Well, I'm asking you if you know for a fact**
 19 **that she had the ticket --**
 20 A. Only that she signed --
 21 **Q. -- at the time --**
 22 A. -- that she did.
 23 **Q. -- at the time she wrote "void" in? Do you**

Page 474

1 **know for a fact that at the time she wrote**
 2 **that void in that she had the ticket?**
 3 MS. NELSON: Asked and answered. She said
 4 she signed it --
 5 MR. JAFFREE: I didn't ask her had she
 6 signed it. I asked her if she knew
 7 for a fact she had the ticket.
 8 **Q. Well, I mean, you're talking to counsel, but**
 9 **you're not answering my question.**
 10 A. Well, yes, I think she had it because it had a
 11 number.
 12 **Q. My question is, at the time she wrote "void,"**
 13 **do you know for a fact that she had the**
 14 **ticket?**
 15 A. Do I know for a fact that she had the ticket?
 16 I don't know for a -- I wasn't there. No.
 17 **Q. All right. Okay. Then let me help you out a**
 18 **little bit here.**
 19 **Do you know if the officer giving her**
 20 **these tickets and their being placed -- these**
 21 **numbers then placed in the computer occurred**
 22 **within the same five-minute span?**
 23 A. No, I don't know.

Page 475

1 **Q. You don't.**
 2 A. She wasn't terminated for that.
 3 **Q. Okay. This was part of the reason she was**
 4 **terminated.**
 5 A. She was not terminated for that. She was
 6 terminated for the two insubordinations within
 7 a two-year period.
 8 **Q. This was part of the reason she was**
 9 **terminated.**
 10 MS. NELSON: Well, if you add that one,
 11 then that would have been --
 12 THE WITNESS: Three.
 13 MS. NELSON: -- three majors in a two-year
 14 period.
 15 MR. JAFFREE: Okay. If you call this a
 16 major within, fine. I mean, if you're
 17 going to somehow twist logic to that
 18 extent.
 19 MS. NELSON: Object to your statements
 20 that --
 21 **Q. Here's my question. See if we can agree.**
 22 **Mary Turner, according to the evidence we**
 23 **have, contacted the officer, and the officer**

Page 476

1 **said, you can send the tickets back.**
 2 MS. NELSON: You know you can ask this --
 3 I'd appreciate your not testifying.
 4 Ask this witness what she knows
 5 instead of you testifying --
 6 **Q. Do you know --**
 7 MS. NELSON: -- and giving all these
 8 hypotheticals --
 9 **Q. Do you know --**
 10 MS. NELSON: -- of what the evidence --
 11 **Q. Do you know whether or not or do you have**
 12 **reason to believe that Mary Turner contacted**
 13 **the officer about this ticket?**
 14 A. Only what -- what I've gleaned from the
 15 investigation.
 16 **Q. All right. From the investigation --**
 17 A. No first-hand knowledge.
 18 **Q. From the investigation, does it appear that**
 19 **Mary Turner asked the officer for the**
 20 **ticket -- from the investigation, asked the**
 21 **officer could he void the ticket? Based on**
 22 **your review of the investigation, does it**
 23 **appear that Mary Turner asked the officer**

119 (Pages 473 to 476)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 477	Page 479
<p>1 could he void the ticket?</p> <p>2 MS. NELSON: If you know.</p> <p>3 A. It appeared that that's what the investigator</p> <p>4 found, just like in Fondren he found that --</p> <p>5 Q. I'm not asking about Fondren. Does it appear</p> <p>6 that the investigator found that the officer</p> <p>7 told Mary Turner that she could send the</p> <p>8 ticket back to him?</p> <p>9 A. I mean, that was Mary's testimony I guess.</p> <p>10 Q. Was that the officer's testimony as well?</p> <p>11 A. That he told her, yeah, she could send it</p> <p>12 back? I think -- yeah. Because I think he</p> <p>13 was disciplined for that. He got a major</p> <p>14 violation, too, for that.</p> <p>15 Q. Does it appear from the investigation that the</p> <p>16 ticket was returned to the officer?</p> <p>17 MS. NELSON: What ticket?</p> <p>18 Q. This ticket that was missing here, this ticket</p> <p>19 of Steven Phelps?</p> <p>20 MS. NELSON: What missing ticket are you</p> <p>21 talking about?</p> <p>22 MR. JAFFREE: The Steven Phelps speeding</p> <p>23 ticket.</p>	<p>1 officer.</p> <p>2 Do you have any evidence that she did not</p> <p>3 contact the police officer?</p> <p>4 A. I think the police officer said she did</p> <p>5 not -- he did not talk to Mary Beth. He</p> <p>6 talked to Mary Turner.</p> <p>7 Q. All right. Did anybody ask him if he talked</p> <p>8 to Mary Beth?</p> <p>9 A. I --</p> <p>10 MS. NELSON: If you know.</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. Do you have any evidence as to who</p> <p>13 retrieved the ticket and sent it back to the</p> <p>14 police officer?</p> <p>15 A. Any evidence other than the fact that Mary</p> <p>16 Beth swore that she received the ticket?</p> <p>17 Q. I'm not talking about who received it. Who</p> <p>18 retrieved the ticket --</p> <p>19 A. No. Mary Beth --</p> <p>20 Q. -- and sent it back?</p> <p>21 A. Mary Beth as far as I know.</p> <p>22 Q. Mary Beth sent it to the police officer?</p> <p>23 A. She had it. I don't know.</p>
Page 478	Page 480
<p>1 MS. NELSON: You're talking about the</p> <p>2 voided ticket that Mary Brackin</p> <p>3 mishandled?</p> <p>4 MR. JAFFREE: The ticket --</p> <p>5 MS. NELSON: That she engaged in improper</p> <p>6 conduct for?</p> <p>7 MR. JAFFREE: All right.</p> <p>8 The ticket that we're --</p> <p>9 Q. Do you know what ticket we're talking about?</p> <p>10 MS. NELSON: The ticket that had been</p> <p>11 sworn to --</p> <p>12 Q. The ticket, do you know which ticket I'm</p> <p>13 talking about?</p> <p>14 MS. NELSON: Do you, Judge?</p> <p>15 THE WITNESS: I assume he's talking about</p> <p>16 the ticket that the officer swore to</p> <p>17 and then they -- they voided it</p> <p>18 without talking to him.</p> <p>19 Q. You keep on saying "swore to," but fine.</p> <p>20 Okay.</p> <p>21 Mary Beth said that when she did these</p> <p>22 numbers, the ticket was missing. She also</p> <p>23 testified that she contacted the police</p>	<p>1 Q. Do you have any evidence that Mary Beth knew</p> <p>2 that the police officer wanted the ticket</p> <p>3 returned to him?</p> <p>4 A. I don't know.</p> <p>5 Q. You don't know.</p> <p>6 A. You said she talked to him and he told her</p> <p>7 that.</p> <p>8 Q. Well, also, she testified that he told her --</p> <p>9 A. Right.</p> <p>10 Q. -- to send the ticket back to him. Do you</p> <p>11 have any evidence to dispute that?</p> <p>12 A. No. She should have said, no, you swore to</p> <p>13 it, it's got to be nolle prossed by the judge,</p> <p>14 we can't send it back.</p> <p>15 Q. But there is no policy on that?</p> <p>16 A. There's state law that says that.</p> <p>17 Q. But there's no policy from your office on</p> <p>18 that?</p> <p>19 MS. NELSON: You're being argumentative.</p> <p>20 State law I think would supercede</p> <p>21 policy.</p> <p>22 A. And that's what the Court of Criminal Appeals</p> <p>23 said, that it didn't matter whether or not we</p>

120 (Pages 477 to 480)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 481</p> <p>1 had a policy because the state law superceded</p> <p>2 it.</p> <p>3 Q. Court of Criminal Appeals?</p> <p>4 MS. NELSON: What she did was a violation</p> <p>5 to state law.</p> <p>6 Q. State Law. She didn't get charged with</p> <p>7 violating state law, did she? I mean, that</p> <p>8 was not on your termination notice, that she</p> <p>9 violated state law?</p> <p>10 MS. NELSON: Object to the form.</p> <p>11 Q. Was it?</p> <p>12 A. I don't remember.</p> <p>13 Q. You think your termination of her told her she</p> <p>14 violated state law?</p> <p>15 A. I think it said she was negligent in the</p> <p>16 handling of it.</p> <p>17 Q. Of the ticket. I'm through.</p> <p>18 A. Okay.</p> <p>19 EXAMINATION</p> <p>20 BY MS. NELSON:</p> <p>21 Q. A couple of quick questions. I'm sorry.</p> <p>22 A. That's okay.</p> <p>23 Q. On Plaintiffs' Exhibit 13, did Mary Beth</p>	<p style="text-align: right;">Page 483</p> <p>1 Q. Just to clarify some testimony earlier, I'm</p> <p>2 referring to Plaintiffs' Exhibit Number 6</p> <p>3 regarding this memo from A-Advantage Bonding.</p> <p>4 And you know, remember when you were</p> <p>5 questioned about this, and there's a note on</p> <p>6 the front that says that this was "filed by</p> <p>7 Rickey Stokes," and "Nancy called the judge to</p> <p>8 discuss," "and what would happen." "Judge</p> <p>9 laughed and said, nothing would be done</p> <p>10 because Rickey" Stokes "was always causing</p> <p>11 trouble."</p> <p>12 Did you state that to Nancy?</p> <p>13 A. I don't remember that or laughing on any of</p> <p>14 that. I don't remember seeing this.</p> <p>15 Q. You don't remember seeing Plaintiff's Exhibit</p> <p>16 6?</p> <p>17 A. I don't remember, but I would have forwarded</p> <p>18 it to her since she was -- it was about her</p> <p>19 department, court docket procedures, things</p> <p>20 that she was in control of.</p> <p>21 I'm not saying I didn't, but I don't</p> <p>22 remember seeing it.</p> <p>23 Q. I think earlier, just to clarify something,</p>
<p style="text-align: right;">Page 482</p> <p>1 Brackin engage in improper conduct by striking</p> <p>2 "void" through this transmittal sheet?</p> <p>3 A. After the officer had sworn to it, yes. It</p> <p>4 had been turned in to her.</p> <p>5 Q. I'm going to show you what's been marked as</p> <p>6 Plaintiffs' 5, which was a drawing of the</p> <p>7 offices. Is this drawing -- do you know who</p> <p>8 did this drawing?</p> <p>9 A. No.</p> <p>10 Q. Are the offices drawn to scale --</p> <p>11 A. No.</p> <p>12 Q. -- as they are accurately?</p> <p>13 A. We just needed to number them so that when</p> <p>14 each magistrate was packing up her office, she</p> <p>15 knew what number to put on her boxes.</p> <p>16 Q. So according to this picture, office seven</p> <p>17 looks like about -- it's about one-tenth the</p> <p>18 size of office one. That's not a true --</p> <p>19 A. No.</p> <p>20 Q. -- proportion to scale, is it?</p> <p>21 A. No. And office seven ended up being the most</p> <p>22 beautiful, biggest office, and everybody</p> <p>23 wanted it after I did that.</p>	<p style="text-align: right;">Page 484</p> <p>1 you were asked about some of the clubs that</p> <p>2 you belong to. And I think Mr. Jaffree was</p> <p>3 trying to imply that you were only a member of</p> <p>4 black organizations.</p> <p>5 Did you remember any other social clubs</p> <p>6 that you're a member of?</p> <p>7 A. Yes.</p> <p>8 Q. Can you tell me what those are?</p> <p>9 A. I'm on the board of directors of Girls' Inc.</p> <p>10 I'm in the Inns of Court which is a social</p> <p>11 organization of lawyers and judges that</p> <p>12 preside for the Houston County Bar, which I'm</p> <p>13 a member of; Junior League; Zonta, Inc.; Women</p> <p>14 Build for Habitat for Humanity.</p> <p>15 Q. Junior League of what?</p> <p>16 A. Montgomery.</p> <p>17 Q. Is that a mostly white organization?</p> <p>18 A. 99 percent.</p> <p>19 Q. Zonta, is that a white organization?</p> <p>20 A. 99 percent white. It's not white because I'm</p> <p>21 in it, but 99 percent white. Women Build</p> <p>22 Habitat for Humanity. And they just stated</p> <p>23 this new thing, WIND, the women involved in</p>

121 (Pages 481 to 484)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 485

1 the revitalization of Downtown Dothan. And
2 they asked me to chair that committee.

3 MS. NELSON: I would like to again state
4 for the Record two things.

5 One, I observe the right to
6 question Nancy Martin on the documents
7 that you produced today and did not
8 produce yesterday.

9 I would also ask you to remind
10 Nancy Martin that she's under a
11 protective order in this case not to
12 discuss any of the testimony,
13 documents in this case.

14 And also we'd remind you just for
15 the Record today, that, you know, the
16 evidence and documents produced in
17 this case are under a protective
18 order.

19 MR. JAFFREE: I don't have to remind
20 Ms. Brackin of that?

21 MS. NELSON: No. Well, I think we went
22 over that with Ms. Brackin.

23 MR. JAFFREE: Well, as you know, I didn't

Page 486

1 even cover some of the evidence that I
2 have because I have no intentions of
3 embarrassing anybody. I didn't go
4 over stuff that I benefited from in
5 having access to the judge's file. As
6 a matter of fact, my clients don't
7 even know about it because it's not
8 relevant, so I have no intentions of
9 telling anybody anything.

10 MS. NELSON: Give me two seconds.
11 (Deposition concluded at 6:25 p.m.)

12 *****

13 FURTHER DEPONENT SAITH NOT

14 *****

122 (Pages 485 to 486)

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660